

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

vs.

MOHAMAD HAMAD and TALYA LUBIT

Criminal No.
MJ No. 24-1794
CR No. 24-257

Transcript of Proceedings held on Wednesday,
November 6, 2024, in the United States District Court, 700
Grant Street, Pittsburgh, PA 15219, before Honorable Kezia
O. L. Taylor, United States District Magistrate.

APPEARANCES:

For the Government: U.S. Attorney's Office
by Carolyn Bloch, Esq.

For Defendant Federal Public Defenders
Hamad: by Yemi Olaiya, Esq.

For Defendant Frank Walker Law
Lubit: by Frank Walker, Esq.

Court Reporter: Teresa M. Benson, RMR, FCRR
700 Grant Street
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Proceedings recorded by mechanical stenography;
transcript produced by computer-aided transcription.

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1 P R O C E E D I N G S

2 (In open court. Defendants present with counsel.)

3 THE COURT: Good afternoon. So we are scheduled
4 today for two proceedings this afternoon, the first proceeding
5 in the matter of U.S.A. versus Hamad, et al., concerning two
6 Defendants at MJ No. 24-1794. I was just informed it is
7 possible that I'm not being heard in the back. There we are.
8 Magic.

9 As I was saying -- I'll start over -- we are
10 scheduled for two proceedings here today, the first being the
11 preliminary examination on the Criminal Complaint that's
12 pending at 24-mj-1794; the second by way of motion is a motion
13 for an evidentiary hearing as it relates to the condition of
14 pretrial release concerning Mr. Hamad.

15 My understanding from that motion is that the
16 evidence that is deduced at the preliminary hearing will be
17 the evidence that is needed in order for counsel to make their
18 move here in court to amend or recommend amending the Order
19 setting forth the conditions of release.

20 So with that said, I'll get started. First on behalf
21 of the government, will you please identify yourself for the
22 record.

23 MS. BLOCH: Certainly. Good afternoon. Carolyn
24 Bloch on behalf of the United States.

25 THE COURT: Thank you. And counsel on behalf of

1 Mr. Hamad, please identify yourself for the record.

2 MS. OLAIYA: May it please the Court, Yemi Olaiya on
3 behalf of Mr. Hamad.

4 THE COURT: Thank you, Attorney Olaiya. Counsel on
5 behalf of Ms. Lubit, please identify yourself for the record.

6 MR. WALKER: Good afternoon, Your Honor. May it
7 please the Court, Frank Walker on behalf of Ms. Lubit.
8 Ms. Lubit is present in person.

9 THE COURT: So a couple things before we actually get
10 underway with the presentation of testimony and other evidence
11 in this matter. I remind the parties that as it relates to
12 the preliminary examination on the Criminal Complaint, this is
13 a probable cause hearing. As the parties may be aware and
14 counsel certainly are aware that as it relates to a probable
15 cause hearing, the goal of the Court is to understand whether
16 or not there is a reasonable belief that the Defendants
17 committed the violations that have been set forth in the
18 Criminal Complaint, that being 18 U.S.C. Section 371,
19 conspiracy to commit an offense against the United States from
20 in and around July 2024 through or about July 29, 2024, as
21 well as 18 U.S.C. Sections 247(c), 247(d)(5) and (2) regarding
22 defacing and damaging religious real property on or about
23 July 29, 2024.

24 To the Defendants, as you probably are aware, at this
25 proceeding, a couple things will happen. There will be the

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1 evidentiary hearing, argument and a judicial ruling. Motions
2 to suppress are not to be considered. The Federal Rules of
3 Evidence will not apply, and I will caution counsel that this
4 proceeding will not turn into an extensive discovery for
5 trial.

6 With that said, to the Defendants, if you choose, you
7 will have an opportunity to be heard, to question the adverse
8 witness, so with that said, I'll turn to AUSA Bloch on behalf
9 of the government to proceed.

10 MS. BLOCH: Certainly, Your Honor. Thank you. The
11 government calls Detective David Derbish. Your Honor, may I
12 take a seat?

13 THE COURT: You may.

14 MS. BLOCH: Thank you very much.

15 **DETECTIVE DAVID DERBISH**

16 **was duly sworn and testified as follows:**

17 **DIRECT EXAMINATION**

18 BY MS. BLOCH:

19 Q. If you could please state your name and spell your last
20 name for the record.

21 A. My name is David Derbish, D-E-R-B-I-S-H.

22 Q. Mr. Derbish, how are you currently employed?

23 A. I'm employed by the FBI's joint terrorism task force as a
24 task force officer. My employer is the City of Pittsburgh
25 Bureau of Police. I have been there since 2009, and prior to

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1 that, I was a military police sergeant with the United States
2 Army.

3 Q. Okay. As part of your role as a task force officer with
4 the FBI, do you participate in various investigations
5 undertaken by the FBI that involve both issues of both
6 domestic and international terrorism as well as other related
7 offenses such as hate crimes and things of that nature?

8 A. Yes. As part of my job, I hold a top secret security
9 clearance, so I do work both international and domestic
10 terrorism along with any other crime that the FBI would ask me
11 to work on, and my primary focus is within the City of
12 Pittsburgh where I'm employed.

13 Q. How long have you been serving on the task force with the
14 FBI?

15 A. Approximately three years.

16 Q. Okay. Have you participated in investigations that
17 involve international terrorism organizations?

18 A. Yes, I have.

19 Q. Is one such organization that you have come to be familiar
20 with that of Hamas?

21 A. Yes, it is.

22 Q. If you could just briefly inform the Court of what Hamas
23 is so that the record is clear on that point.

24 A. Hamas is the largest and most capable militant group
25 within the Palestinian territories, and one of the two

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1 territories' major political parties.

2 Hamas emerged at approximately 1987 during the first
3 Palestinian uprising. The group is committed to an armed
4 resistance against Israel and a creation of an Islamic
5 Palestinian state in Israel's place.

6 Q. On October 7, 2023, there were terrorist acts committed in
7 Israel, is that correct, and those acts were committed by
8 members of the Hamas organization?

9 A. Yes. On that date, Hamas sent approximately 2,000 armed
10 fighters into Israel across the border. They entered
11 primarily civilian towns, including farms, and they launched a
12 wave of violence against civilians.

13 During that time, hundreds of civilians, including
14 Americans, were killed. Others were kidnapped, taken hostage
15 and brought to the Gaza strip by Hamas.

16 Q. Since that October 7th terrorist incident, there has been
17 an ongoing war in Israel, rather between Israel and the
18 Palestinian state, most importantly, Hamas in control of that
19 state. Stemming from that war, I should say, and the
20 incidents of October 7th, have there been locally, that is,
21 within the Western District of Pennsylvania and specifically
22 Pittsburgh, lawful protests regarding various aspects of
23 ongoing war between Israel and Hamas?

24 A. Yes. There has been many lawful protests.

25 Q. In connection with some of those lawful protests, have

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1 there been reports and/or investigations of incidents of local
2 vandalism, incidents targeting residents and/or businesses
3 that either support Israel or are perceived to support Israel?

4 A. Yes. Since October 7, 2023, there has been hundreds of
5 incidents within the City of Pittsburgh, primarily criminal
6 mischief incidents, broken windows, damaged vehicles,
7 residences that have been spray-painted, sidewalks in front of
8 residences have been spray-painted, and the common issue at
9 hand was the places that were spray-painted or damaged
10 displayed some support of Israel or were connected to Jewish
11 institutions.

12 Q. Specifically, Detective Derbish, on July 29, 2024, just a
13 few months ago, did you become aware of a vandalism incident
14 that had been reported by the Chabad of Squirrel Hill?

15 A. Yes, I did become aware of that. Chabad had reported that
16 the outer wall of their property at 1700 Beechwood Boulevard,
17 which is at a corner of Beechwood and Forbes, was
18 spray-painted with the words "Jews 4 Palestine" in red
19 spray-paint, and in addition to that, there was a red upside
20 down triangle spray-painted on the wall of the synagogue.

21 Q. Before we get further into the details of the
22 investigation, after you were informed that there had been
23 this vandalism incident, did you become personally involved in
24 an investigation of the perpetrators who may have committed
25 the acts?

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1 A. Yes, I did. The incident was reported to Zone 4
2 Pittsburgh police who then circulated information, pertinent
3 information and photographs, to the rest of the Pittsburgh
4 police department.

5 Q. In your case as a task force officer with the FBI, did you
6 join forces with the FBI in order to assist the Pittsburgh
7 Bureau of Police in that investigation?

8 A. Yes, I did. And I also would have spoken, along with
9 other Pittsburgh police detectives, with members of the CMU
10 police department and University of Pittsburgh police
11 department who all have surveillance capability cameras and
12 license plate readers in the area which aids us in solving
13 crimes on a daily basis.

14 Q. Okay. You have before you, do you not, what is marked as
15 Government's Exhibit No. 1, which purports to be the Complaint
16 and the affidavit in support of the Complaint filed in this
17 case. Have you seen this document before?

18 A. Yes, I have.

19 Q. Have you read it in its entirety?

20 A. Yes, I have.

21 Q. You are not the affiant on this particular document, but
22 this document, in fact, reflects the investigation that was
23 undertaken by you and other agents of the FBI?

24 A. Yes. I was present for almost all of the facts within
25 this case.

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1 Q. Okay.

2 MS. BLOCH: Your Honor, the government moves for
3 admission of Government Exhibit 1.

4 THE COURT: Any objection?

5 MS. OLAIYA: No objection, Your Honor.

6 THE COURT: Any objection, Mr. Walker?

7 MR. WALKER: Your Honor, a question in aid of an
8 objection. Sir, you stated you were present during the
9 majority of the facts in the affidavit.

10 THE WITNESS: That's correct.

11 MR. WALKER: Can you specify which portion?

12 THE WITNESS: Well, yes. So Section No. 1,
13 "Introduction and Agent Background" is not involving me.

14 MS. BLOCH: Your Honor, if I could just interrupt for
15 one second, maybe I can ask a question that would clarify and
16 assist you.

17 MR. WALKER: Sure.

18 BY MS. BLOCH:

19 Q. To the extent that you did not participate in a particular
20 investigative endeavor reflected in this document, did you
21 obtain the details of that investigative endeavor in
22 furtherance of this investigation from the agent or officers
23 that did, in fact, participate in that particular aspect?

24 A. Yes. If I did not take part in these acts specifically,
25 then I was informed of them.

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1 Q. Again, you have read this, the affidavit, in its entirety,
2 and to the best of your knowledge, is it true and correct?

3 A. Yes, it is.

4 MR. WALKER: No objection, Your Honor.

5 THE COURT: Thank you. So admitted.

6 Q. Okay. So we were talking about the July 29th
7 investigation or rather the report of the vandalism of the
8 Chabad, and you started to describe the damage that had been
9 done to the Chabad. But before we go to that place, if I can
10 ask you a question about the Chabad itself.

11 You indicated it was located in Squirrel Hill on Beechwood
12 Boulevard, rather at the corner of Forbes and Beechwood
13 Boulevard.

14 A. That's correct.

15 Q. Do you personally have knowledge of what a Chabad is and
16 who it serves?

17 A. The Chabad is a center for Jewish educational programming.
18 It has a synagogue for Shabbat which is part of the Jewish
19 faith, and it holds other Jewish religious services. It is
20 housed in real property located at that address. It is a
21 brick and mortar building. Out front there is a menorrhea,
22 which is a Jewish symbol, and on the front of the building is
23 a canvas sign which indicates "Shabbat of Pittsburgh."

24 THE COURT: Excuse me, counsel. Is there a reason
25 why the three persons standing in the back of the gallery

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1 can't sit in the first pew?

2 THE MARSHAL: Typically that was for counsel unless
3 you authorize it. If you want them seated.

4 THE COURT: Sure. If there is no more available
5 space, I do authorize they can sit on the first bench. The
6 government may proceed.

7 Q. Detective Derbish, you described the structure itself in
8 this affidavit that is Government's Exhibit No. 1. If you
9 could please turn to Paragraph No. 17 where there appears to
10 be a picture of the structure identified as the Chabad of
11 Squirrel Hill; is that correct?

12 A. Yes, it is. And there also appears to be lighting facing
13 the name of the building, which is "Shabbat of Squirrel Hill,"
14 so it is lit up at night.

15 Q. Okay. Did you take this photographs that appears in the
16 affidavit?

17 A. No, I did not.

18 Q. Was this photograph taken by members of the Pittsburgh
19 Bureau of Police after they arrived on scene following the
20 report, the incident?

21 A. It was either taken by Pittsburgh police or supplied to
22 the Pittsburgh police from the person who made this report.

23 Q. And the graffiti that was placed on the surface of the
24 building is reflected in this photograph; is it not?

25 A. Yes. The words "Jews 4 Palestine" in red spray-paint,

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1 along with an inverted red triangle.

2 Q. Let's talk a little bit about the inverted red triangle.

3 Is that a symbol that has come to be associated with Hamas and
4 their activities specifically in connection with the ongoing
5 war with Israel?

6 A. Yes. The inverted red triangle is a marking indicating
7 that Hamas has a target at that specific location or about a
8 specific person.

9 Q. Now, once this report was made, I take it that -- you sort
10 of referenced a little bit, but you, in connection with the
11 CMU police, the Pitt police, and others, obtained to the
12 extent that they existed various surveillance footage.

13 Before you did that, are you aware as to whether the
14 Chabad itself had video footage in front of its property?

15 A. It does have video, and that video was supplied to the
16 Pittsburgh police and the FBI.

17 Q. Okay. Have you seen that video?

18 A. Yes, I have.

19 Q. Let's talk a little bit about what's depicted in the
20 video, and is it the incident in question?

21 A. Yes.

22 Q. Why don't you describe to the Court exactly what you can
23 see and the approximate time it occurred?

24 A. The approximate time of occurrence was 0146 a.m. and that
25 was on July 29th. The early morning of July 29th, a vehicle

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1 approaches the intersection where Chabad is located and stops.
2 A person gets out of the passenger seat and it appears the
3 driver of the vehicle -- it is a convertible -- stays inside
4 the vehicle and it is running the entire time. The person
5 that gets out of the passenger seat is covered head to toe.
6 It appears face mask, gloves and all black clothing. The gait
7 of that person was female, and that person spray-paints the
8 words "Jews 4 Palestine" along with the inverted red triangle
9 onto the synagogue.

10 Q. Can you actually see the paint going onto the building, or
11 do you just see the actor moving their hand as if they are
12 spray-painting?

13 A. I believe it is the actor moving the hand as if they are
14 spray-painting.

15 Q. Can you see a can of spray-paint in the hand of the actor?

16 A. I believe the can was white, yes.

17 Q. So in addition to that video footage you obtained, correct
18 me if I'm wrong, you obtained traffic surveillance footage
19 from the City of Pittsburgh, or is that county operated?

20 A. That is City of Pittsburgh operated.

21 Q. Why don't you explain what traffic surveillance footage
22 is, and then we can talk about what was observed in that
23 content.

24 A. The City of Pittsburgh operates hundreds of cameras placed
25 all over the city. Some of those cameras are equipped with

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1 license plate readers and others are stand-alone. Most of the
2 cameras are PTZ, so the lens can zoom in and out.

3 THE COURT: Can you repeat that.

4 THE WITNESS: Pan Tilt Zoom, abbreviated PTZ, which
5 allows the camera to gyrate almost 360 degrees and also Zoom
6 in on objects. And in conjunction with the City of Pittsburgh
7 capabilities, CMU police and University of Pittsburgh also
8 have similar capabilities in the area.

9 Q. Okay. On this particular occasion, was there some traffic
10 surveillance footage that was helpful to you in further
11 identifying in particular the vehicle in question that had
12 been at the Chabad?

13 A. Yes. We first observed the suspect's vehicle at
14 approximately 1:20 a.m. in the area of [REDACTED],
15 which is close to Defendant Talya Lubit's residence. We had
16 tracked that vehicle on numerous cameras, approximately five
17 City of Pittsburgh cameras, up until the point of the criminal
18 incident at 0146 a.m.

19 Q. Okay. In the video footage that we have just spoken
20 about, including that from the Chabad, were there detectable
21 unique characteristics about this vehicle that were
22 observable?

23 A. Yes. The vehicle, what's determined to be the vehicle, is
24 approximately 28 years old. It is a BMW, and it is a
25 convertible. The rear taillights had been changed at some

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1 point. The exhaust is loud, and we could hear that at various
2 points on video. And the front end wheels were mismatched.
3 They were visibly different from each other, so they had been
4 changed.

5 Q. On both sides of the car?

6 A. Positively on the driver's side. That's where we could
7 see. I believe after viewing the vehicle myself, it was also
8 passenger side, so both sides.

9 Q. Okay. The video surveillance footage that you obtained
10 through the Carnegie Mellon police department, did that
11 provide some footage that helped to reveal the license plate
12 on the subject vehicle?

13 A. Yes. The vehicle had been located in the
14 Oakland/Shadyside area previously, and the license plate was
15 determined to be an Ohio license plate, and the vehicle that
16 was located matched the description of the vehicle we saw on
17 the other cameras from the night of the criminal incident.

18 Q. That was Ohio license place JYL 9045; am I correct?

19 A. That's correct.

20 Q. Okay. Did the images that you saw provided by Carnegie
21 Mellon comport with all of the other video footage you had
22 obtained thus far?

23 A. Yes, it did.

24 Q. Okay. Once you had a license plate, were you and the
25 other officers and agents able to query accessible databases

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1 that provide different information, Accurint and other
2 databases like that, to assist you in associating that Ohio
3 license plate to an address in the Allegheny County area?

4 A. Yes. The license plate, based on police database
5 searches, is registered to [REDACTED] in
6 Coraopolis. And the owner of that vehicle, I believe, is the
7 mother of Defendant Mohamad.

8 Q. In addition to conducting searches of those databases,
9 that is Accurint and, I guess, NCIC is also a database that
10 provides that similar kind of information?

11 A. Yes.

12 Q. Were you able to pull up an image of that particular
13 address, that is, [REDACTED], using Google Earth
14 tools?

15 A. Yes, I was. And the Google image that is available for
16 [REDACTED] appears to contain the same BMW that we
17 saw and that picture, I believe, was taken in 2022, so it was
18 fairly recent.

19 Q. So the car you're saying was actually depicted somewhere
20 in front -- where was it located with respect to the house at
21 that location?

22 A. It was parked in the driveway.

23 Q. At some point, you or the other agents pulled real estate
24 records as well for that particular residence to determine who
25 was living there. Prior to having any contact with the

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1 Defendant, Mr. Hamad, was there agent contact with the owner
2 or owners of that property?

3 A. Yes, there was. Abdalla (phonetic) Hamad is the father of
4 Defendant Mohamad Hamad. Agent Collins and I did contact him
5 at his workplace and interviewed him.

6 Q. Were you able to confirm that he lived at that particular
7 residence?

8 A. We confirmed all the occupants, including Mohamad, lived
9 at the residence.

10 Q. Mohamad being the Defendant?

11 A. Yes.

12 Q. Who else lived in the residence?

13 A. Abdalla, the father, Iptasim (phonetic), the mother.

14 MR. LIPSON: Your Honor, if I may, to the extent --

15 THE COURT: Attorney Lipson, have you entered your
16 appearance? I know I heard from Attorney Olaiya as well as
17 Attorney Walker --

18 MR. LIPSON: I have been appointed by my office to
19 assist with the defense team. In that sense, Your Honor, my
20 appearance is entered. I just wanted to note to the extent
21 that the witness was going to state the name of a minor, that
22 the minor's initials only be used for purposes of this
23 proceeding.

24 THE COURT: Sure. While I have the most recent
25 printing of the criminal docket, I don't have you listed, but

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1 duly noted.

2 MR. LIPSON: Thank you, Your Honor.

3 THE WITNESS: For these purpose, there is a
4 19-year-old female and also a juvenile female also at the
5 residence.

6 Q. Once you and the other agents were able to identify where
7 the vehicle in question was or where the owner of the vehicle
8 in question was living, were you then able to sort of do a
9 quick search of where the actor may have purchased or acquired
10 the paint in question?

11 A. Yes. We did do a search for that, and that involved just
12 reaching out to various paint retailers in the area, and we
13 were able to locate sales records for a can of spray-paint and
14 it is a Rust-Oleum high-gloss paint, and the color is
15 Strawberry Fields. It is red and purchased at Walmart in
16 Robinson.

17 Q. Approximately how far is the Walmart in Robinson from the
18 Defendant's residence in Coraopolis?

19 A. A couple of miles.

20 Q. Were you and your fellow agents able to acquire video
21 footage and records from that Walmart to assist you in
22 furthering your investigation of this incident?

23 A. Yes. Walmart provided us video of the individual Mohamad
24 Hamad, the Defendant, arriving in a convertible, parking his
25 vehicle, walking into the Walmart store with a cell phone in

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1 his hand, purchasing the paint, ringing the paint at a
2 self-checkout and then paying with his credit card with his
3 name on it and then leaving Walmart with a bag.

4 He also purchased Tastykakes with the paint. He left
5 with the items purchased in a bag, his cell phone in his
6 pocket, and he left the Walmart.

7 Q. You indicated it was a credit card. Just so the record is
8 accurate, was it a debit card rather than a credit card on
9 that particular purchase? And if you don't know, that's fine.

10 A. I'm not sure.

11 Q. In watching that video, were you easily able to identify
12 the car that he came in and departed in as the same car that
13 you saw at the Chabad?

14 A. Yes.

15 Q. And obviously in the other video footage you had already
16 acquired?

17 A. Yes.

18 Q. At that point, did you make an endeavor to conduct a
19 consent search of the residence?

20 A. Yes, I did.

21 Q. And was that attempt made -- ultimately you got search
22 warrants; is that correct?

23 A. Yes. During conversations with Abdalla Hamad, we obtained
24 consent and from his work, he accompanied us to his residence.
25 We went in and sat on his living room couch basically and just

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1 spoke with him and requested consent for his residence -- to
2 search his residence and that consent at that time was
3 granted.

4 Q. Does the Defendant's father speak English?

5 A. Yes, very well.

6 Q. Before the search was undertaken pursuant to that consent,
7 did you have contact with the Defendant Mohamad Hamad?

8 A. Yes.

9 Q. Did Mr. Hamad, the Defendant, provide you with the
10 necessary consent as well?

11 A. No, he did not. He denied consent.

12 Q. Did he engage with his father in your presence, in the
13 presence of other agents and officers in a conversation in
14 Arabic?

15 A. Yes. When interacting with the agents and myself and his
16 father, primarily English was spoken. And there was a period
17 of time where Arabic was spoken. Obviously none of the agents
18 that were there on that day understood Arabic.

19 Q. Did he engage in a conversation in Arabic just with his
20 father with regard to his father's consent to search?

21 A. I believe, yes.

22 MS. OLAIYA: I'm going to object. I think this would
23 go to speculation. The agent already testified that he
24 doesn't speak Arabic, so how would he know the content of the
25 conversation?

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1 THE COURT: Response?

2 MS. BLOCH: That's why I only asked did he have a
3 conversation with his father. After his father provided the
4 consent is another way of asking the question.

5 A. Yes. His father and his mother.

6 Q. Was that conversation recorded by agents?

7 A. Yes, it was recorded.

8 Q. Was it fairly simultaneously provided to an Arabic
9 translator?

10 A. Yes, it was.

11 Q. Have you and the other agents obtained a summary of the
12 content of that brief conversation with his father?

13 A. Yes, I have a summary only. I don't have an official
14 transcript yet.

15 Q. Essentially what was he saying to his father and his
16 father saying back?

17 A. The subject asked his father to stay strong and not
18 cooperate. He says that it is his father's right to not say
19 anything. Mohamad told his father to shut up and ask the
20 agents to leave the house. The subject asked his father if he
21 wants to go -- wants him to go, which in parentheses probably
22 means to get arrested. The subject tells his father if he
23 doesn't stay strong, he, meaning the subject, may get arrested
24 and will not forgive his father.

25 The mother repeatedly says they have nothing to say.

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1 And then on Minute 14 of this recording, subject tells his
2 parents that at 5:00, two agents, referencing me and Agent
3 Collins, conducted a search in the garbage, and he tells his
4 parents to ask the agents to leave.

5 Q. Had you, in fact, conducted a garbage search at that
6 approximate time at his residence?

7 A. Yes, we did.

8 Q. Did you have contact with Mr. Hamad in connection with
9 that garbage search?

10 A. Yes, we did.

11 Q. Why don't you describe what happened that morning?

12 A. In the early morning hours --

13 THE COURT: When you say contact with Mr. Hamad, are
14 you referring to the father or the Defendant?

15 MS. BLOCH: The Defendant, Your Honor.

16 THE COURT: Thank you.

17 A. I did have contact with the Defendant Mohamad Hamad at
18 approximately 5:00 in the morning. That is probably about
19 accurate. We conducted a search of the trash which was placed
20 at the curb in similar fashion to all the other trash cans in
21 the neighborhood, because it was trash night. At some point
22 when Agent Collins was removing the trash from the curb, we
23 were confronted by the Defendant, Mohamad Hamad. We decided
24 to have no confrontation and get into our vehicle and leave,
25 at which point he entered a vehicle of his own, a separate

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1 vehicle, and began to follow us screaming for approximately 20
2 minutes.

3 During that time, I tried to safely evade where I did
4 go through stop signs, red lights trying to get away, and the
5 whole time Defendant Mohamad Hamad remained with the vehicle,
6 which he did not know, and basically was in pursuit of us.

7 For our safety, I did call 911. I made contact with
8 Allegheny County dispatch and also Moon Township police, and
9 my belief was that Mr. Hamad was calling the police to report
10 some sort of criminal activity, and I wanted dispatch to know
11 that was actually the police. He had not called. There had
12 been no record, so with his persistence, we activated our
13 emergency lights and sirens and identified ourselves as
14 Federal officers or federal agents, and that was in the
15 Walmart parking lot in Robinson.

16 Q. Did you ask Mr. Hamad to identify himself at that time or
17 provide you any information?

18 A. Yes. We asked him basically who are you and what are you
19 doing? And those were questions that we already knew the
20 answer to, because we had seen his driver's license photo.
21 But there was essentially no answer provided or Mohamad Hamad
22 just refused to answer questions, stated he did not answer
23 questions.

24 Q. So you indicated that was in the early hours of the
25 morning that you had contact with him before the search, so

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1 that would have been, I think, August 6, 2024. Am I correct
2 on that?

3 A. Yes, I believe that's correct.

4 Q. So there were a number of hours between that investigative
5 endeavor, the garbage pull, and when you had contact with him
6 later after talking with his father and returning to the home?

7 A. Yes, a number of hours.

8 Q. Okay. When the Defendant refused to consent to the search
9 of the residence, did you and the other agents, most
10 importantly, obviously, Agent Collins, seek to have a search
11 warrant issued or rather have search warrants issued for the
12 house, the Defendant's vehicles, and his person for any
13 electronic device, cell phone in particular?

14 A. Yes, we did apply for and were granted search warrants for
15 all of those items.

16 Q. Okay. So at some point later that day, those search
17 warrants were executed; correct?

18 A. That's correct. They were executed on the same day.

19 Q. In connection with the execution of the search warrant,
20 did you reidentify the subject vehicle and confirm, based upon
21 observation, that it would comport with the vehicle that you
22 had seen in the various surveillance footage that you had?

23 A. Yes. And also prior to that, we had confirmed that the
24 vehicle was parked in his garage. I had personally done
25 surveillance. Thinking back about August 2nd, I observed the

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1 Defendant in his driveway and the vehicle parked in the
2 garage, so when we went back for the search warrant, we did
3 not see it in the driveway and it was, in fact, still in the
4 garage.

5 Q. Did you, as part of this search, locate a can of
6 Rust-Oleum paint in the Strawberry Fields color purchased on
7 the 28th of July?

8 A. Yes, we did. We found that in the residence.

9 Q. I take it you seized that?

10 A. We did seize it, and the SKU number, the identifying
11 number, matched that of the receipt in the inventory which
12 Walmart had on file.

13 Q. Let's talk a little bit more about the cell phone actually
14 before we move on. You did ultimately seize the cell phone
15 that was used by Mr. Hamad; is that correct?

16 A. Yes, we did.

17 Q. Did it match in color with the cell phone that you saw him
18 carrying in the Walmart video footage?

19 A. Yes. It had a black case, and all we could see from the
20 Walmart footage, but we knew a phone was involved there
21 because he was holding it.

22 Q. Why don't you describe the circumstances under which you,
23 as in law enforcement, came into possession of the cell phone?

24 A. Sure. At the point that Agent Collins and I decided that
25 we were going to seek a search warrant, we are responsible for

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1 securing the residence, and during that time, we also have to
2 accommodate reasonable requests of all the family members that
3 are present.

4 So during that time, I explained the locations we
5 would be looking at, what we would be looking for, and that
6 there were certain items that were not going to be able to
7 leave the residence, and those items included but were not
8 limited to the vehicle, any cell phones belonging to
9 Mr. Hamad, any spray-paint, clothing, anything that we would
10 consider evidence.

11 Once we secured the residence, we were not going to
12 allow the occupants to move it, manipulate it or take it away
13 out of fear that the evidence would be destroyed at that
14 point.

15 Q. Okay. So during that time, that is, before you actually
16 had the warrants in hand for execution, did Mr. Hamad engage
17 in a conversation with his mother about his cell phone?

18 A. Yes. There was a conversation in Arabic, and I understood
19 one word of that conversation, and the word was "telephone."
20 So we were all essentially seated in the living room, and
21 during this conversation, I heard the word "telephone," at
22 which point the Defendant's mother walked upstairs. And we
23 gave wide latitude to the occupants because we know that we
24 are extremely inconveniencing them, so we allowed them to walk
25 around. We allowed them to use the bathroom, obtain water. I

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1 believe his mom started cooking a meal, so we allowed the
2 occupants to kind of freely move with the understanding that
3 certain things would not happen. Mohamad's mom returned from
4 the upstairs with a phone in her hand, and it had a black case
5 on it, and reached in front of me to hand it to Mohamad, at
6 which point I said, "Like, we talked about this. We are not
7 going to remove the phone. We are not going to manipulate the
8 phone. We are going to set the phone on the table," so that's
9 what I did. I set the phone on the table.

10 Q. Was it Mr. Hamad that asked his mother -- was it he who
11 used the word "telephone"?

12 A. Yes, it was.

13 Q. Thank you. There was some particular clothing that you
14 seized from the residence. Most importantly for purposes of
15 today was a sweatshirt that is photographed in this --
16 depicted in Government's Exhibit No. 1; correct?

17 A. Yes, we did seize a sweatshirt.

18 Q. Let's turn to Paragraph 32 of Government's Exhibit 1.
19 These are obviously close-up photographs. Is this the front
20 and the back depicted of that particular sweatshirt we are
21 speaking about?

22 A. Yes. That's the sweatshirt that we seized.

23 Q. If you could just describe exactly what is depicted on
24 both the front and back.

25 A. Yes. This sweatshirt was seized from the Defendant's

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1 bedroom. The front and back are similar. They depict the
2 words, "Respect Existence or Expect Resistance." There is a
3 masked individual with a headband depicted holding a firearm
4 along with a red upside down triangle, and that's the large
5 image on the back, with a similar but smaller image on the
6 front.

7 Q. Does the individual with the machine gun that's depicted
8 appear as a Hamas fighter?

9 A. Yes.

10 Q. I take it that inverted symbol, again, is that connected
11 with the Hamas effort at least in this particular war?

12 A. That symbol is used in a lot of Hamas productions,
13 propaganda videos.

14 Q. Okay. Once the search was conducted and the cell phone
15 was seized, there was some forensic analysis immediately, not
16 on site, but immediately undertaken by the FBI to determine
17 whether there was valuable information in the content of the
18 phone; is that correct?

19 A. Yes; that's correct.

20 Q. A number of things were discovered and are set forth in
21 this affidavit, are they not?

22 A. Yes.

23 Q. There is a long list of various pieces of evidence that
24 you acquired from that cell phone, so let's just start first
25 with was there contained within the cell phone a Google Map

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1 search history that pertained specifically to this
2 investigation?

3 A. Yes. The search history within Google Maps included the
4 term "Chabad," "Chabad of Squirrel Hill," "Chabad Young
5 Professionals Pittsburgh," "Chabad Young," "Chabad Lubavitch
6 of Western Pennsylvania," and the address [REDACTED],
7 which is the co-Defendant's address at that time.

8 Q. At that time, as of July 29, 2024?

9 A. Yes, that's correct.

10 Q. Was there contact information for Mr. Hamad's
11 co-Defendant, Talya Lubit?

12 A. Yes. There was contact information by name and phone
13 number, and there was also contact information listed within
14 the Signal app.

15 Q. Let's talk just for a minute about the Signal app. What
16 is Signal, if you can describe what Signal is, what kind of
17 application it is and what services it provides?

18 A. Signal is a downloadable app available on the App Store of
19 all major cell phone companies. It is a messaging and
20 telephone service which offers end-to-end encryption. The
21 company Signal guarantees that the contents of messages cannot
22 be intercepted, and that's why it has become so popular. It
23 offers telephone services, messaging services, group messaging
24 services, video chats, and it allows the ability to change
25 your name within the Signal device.

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1 It also allows you to set messages to disappear at
2 certain intervals, anywhere from one minute to several years,
3 and the device is pass code protected within the app. There
4 is a pass code to get into the Signal app.

5 Q. So if the communications are encrypted end-to-end when
6 using the Signal app, are there still ways that forensically
7 you can capture some contents or communications between Signal
8 users?

9 A. Yes. The FBI and the police have various methods of
10 gaining Signal data.

11 Q. In this particular case, was some of the Signal data
12 between -- I should say rather was there Signal communications
13 within the app between the two Defendants?

14 A. Yes, there was.

15 Q. And for purposes of Ms. Lubit's use of the Signal app,
16 what was her username?

17 A. Her username was Warsaw, W-A-R-S-A-W. I know that that is
18 the case because within the Signal chat, you have the ability
19 to change your name, and the application has an audit trail of
20 name changes, so on the day that her name went from Talya
21 Lubit to Warsaw, Signal made note of that, and we were able to
22 see that.

23 Q. I would like to direct your attention specifically to an
24 exchange between the two Defendants on or about June 1, 2024.
25 During that conversation, were the only participants the two

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1 Defendants, Mr. Hamad and Ms. Lubit?

2 A. For this particular chat, yes.

3 Q. You indicated that within the Signal application, you can
4 create group chats as well. Can you create a screen name or
5 rather a screen image that all of the chat members see when
6 they are chatting with one another?

7 A. Yes. It is the equivalent of a cover photo or cover page,
8 and you can set that as part of your group chat so that any
9 person in the chat can see that photo as the cover photo.

10 Q. All right. Let's talk a little bit about the conversation
11 that the two engaged in on June 1st. If you could look to
12 Subparagraph C of Paragraph 34 of Government's Exhibit 1, if
13 you could please read the quoted information there.

14 A. Yes. For context, the Defendant Hamad is communicating
15 with Defendant Lubit, and states, "My ultimate goal in life is
16 Shaheed. Everything else doesn't matter nearly as much, for
17 me you are Jewish, so that is more than allowed for me." "My
18 goal sets are very different from the average person." "I
19 don't see myself living long," and separately quoted, "For me,
20 it is really hard to think long term."

21 Q. Continue, please.

22 A. Also for context, Defendant Lubit references previous
23 conversations with Mohamad regarding marriage and having
24 children before Mohamad states, "It was a feeling of I could
25 really see myself doing that in life," "But my heart yearns

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1 for being with my brothers overseas." At the conclusion of
2 the conversation, Lubit states, "It's fine. You're doing an
3 honorable thing."

4 Q. Let's talk for just a moment about your understanding of
5 the term "Shaheed." That is a term used in the Islamic faith;
6 is that correct?

7 A. Yes. It is a term used for martyr.

8 Q. And a martyr is someone who dies for their faith?

9 A. Yes; that's correct.

10 Q. Next to the conversation we've just reviewed, there were
11 email records of various purchases set forth and described at
12 some detail in Subsection D of the same paragraph. I would
13 like to speak a little bit about that. There were online
14 purchases -- correct me if I'm wrong -- on June 10, 2024 of
15 certain explosive powders. If you could please provide some
16 detail regarding those purchase records and information that
17 you have acquired in the course of your investigation from
18 persons that are knowledgeable regarding explosive powders, to
19 speak to those records?

20 A. Sure.

21 MS. OLAIYA: Your Honor, at this time, I would object
22 to this line of questioning. It goes outside of the actual
23 charges that are at issue for this case.

24 MS. BLOCH: Your Honor, the government is offering
25 this testimony in part in support of the current conditions

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1 imposed by the Court for the Defendant's release, so in that
2 context, it is certainly relevant, and I think it also sort of
3 speaks to Defendant Mohamad's continuing relationship with
4 endeavors involving Hamas.

5 THE COURT: Objection overruled. You may continue.

6 A. So on June 10, 2024, there was a purchase of 2 pounds of
7 Indian black powder, black aluminum powder from Pyro Chem
8 Source, which is a store, and also 2 pounds of potassium
9 perchlorate from PyroCreations. The online purchases were
10 made using the name Chris Petrenko, which is an alias for
11 Hamad, the Defendant. According to the purchase records, the
12 explosives were each delivered to the residence of [REDACTED]
13 [REDACTED] in Coraopolis, the Defendant's residence.
14 And according to PubChem, which is a database available for
15 information, potassium perchlorate will form an exclusive
16 mixture when combined with certain combustible materials such
17 as Indian black aluminum powder.

18 Q. The phone number that was used to make this purchase
19 associated with the alias name, was that the Defendant's real
20 phone number?

21 A. No, it was not. That number was a voice over IP, and we
22 were not able to determine if that number existed anywhere.

23 Q. Okay.

24 THE COURT: Excuse me one second. The phone number
25 was associated with what IP?

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1 THE WITNESS: Voice over IP. It is abbreviated VOIP.

2 Q. What does that mean?

3 A. That's usually an Internet calling service or an Internet
4 only device that's not directly attributed to a specific
5 device or a specific company such as Verizon or AT&T. It is
6 usually an online available phone number.

7 THE COURT: Can it be traced back to a particular
8 individual or residence or anything like that?

9 THE WITNESS: Sometimes it can, and it really depends
10 on which voice over IP service is used. Some of those
11 services operate outside of the reach of the United States
12 government, and at that point, we sometimes never find out who
13 it belongs to, what phone number.

14 Q. All right. Let's talk a little bit -- have you inquired
15 of any experts in the field of explosives with the FBI or
16 outside the FBI to have a better understanding of how much 2
17 pounds of each of these explosive powders really is?

18 A. Yes. And in a sense that 2 pounds employed criminally
19 would be extremely dangerous to persons or property, once
20 again, if employed criminally.

21 Q. Maybe we will take it a little further in terms of some
22 content in this, the Signal messaging application. There were
23 conversations -- strike that actually. Were there
24 conversations between Mr. Hamad and others involving creating
25 combustible explosives, undertaking to do that, engaging in a

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1 practice round and video footage of a practice round?

2 A. Yes. We found conversations and also video of the
3 practice round, and that conversation occurred --

4 MS. OLAIYA: I'd like to note an objection for the
5 record. The detective is reading from a report. If there is
6 a report that he is reading from during his examination, we
7 would be entitled to a copy of that.

8 Q. Are you reading from Government's Exhibit 1?

9 A. Yes. Exhibit No. 1 is sitting right here. I have my own
10 copy of it.

11 THE COURT: Objection sustained. Overruled. My
12 apologies. Considering the fact that the exhibit he is
13 reading from happens to be Exhibit A, which has already been
14 admitted in evidence.

15 Q. All right. Let's turn to Subparagraph E of Paragraph 34.
16 I believe Subparagraph E speaks to the conversation you're
17 referring to.

18 A. Yes.

19 Q. Did you find or locate within the Signal app a
20 conversation or ongoing conversation between Mr. Hamad and
21 another individual, identified in this affidavit as Individual
22 No. 1, occurring between June 29, 2024 and July 7, 2024,
23 speaking about the explosives?

24 A. Yes. In that conversation, Defendant Hamad and an
25 individual who is known as No. 1 in this affidavit made plans

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1 to practice lighting "a big shell" on or about the date of
2 July 6, 2024 as a practice run for a future explosion.

3 Q. If you could read the content of their conversation on or
4 about June 29th.

5 A. Yes. Defendant Mohamad Hamad had stated: "I kind of just
6 want to test it with you as I've never done something that big
7 LOL, and then another day very soon we can do bros ankles with
8 Talya."

9 Q. Do you know what the phrase, "do bros ankles," means in
10 this context?

11 A. I do not.

12 Q. On July 7th, Mr. Hamad and that individual continue to
13 have conversations. Did the other individuals send Mr. Hamad
14 a video of them undertaking the explosion of this test run, I
15 should say?

16 A. Yes. The text is: "I keep watching the video," and then
17 Individual No. 1 sends Hamad a video clip via Signal of what
18 appears to be a detonation of an explosive device and a
19 corresponding fireball. Defendant Mohamad Hamad responded
20 with a message, "Hell, yeah," the smiley emoji, heart emoji.
21 And we were able to take still shots of that video and make
22 them part of this Exhibit No. 1.

23 Q. Okay. They are depicted on the following page, that is
24 Page 13; is that correct? Are they in sequence, meaning that
25 the top left image is the beginning of the video, and it ends

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1 with the embers of the explosion burning?

2 A. That's correct.

3 Q. During the search that you conducted of Defendant's
4 residence on August 6th, did you find any explosive powders?

5 A. No, we did not. And that's part of our ongoing concern
6 for public safety is that after consultation with the bomb
7 techs, the resident bomb techs in the Pittsburgh field office,
8 the belief by those bomb techs is that a very small portion of
9 the 2 pounds of each chemical was consumed with this device
10 that's photographed and depicted here, which means that pounds
11 of this material would still be out in the world somewhere and
12 not within Defendant Mohamad Hamad's residence, because we
13 searched it and did not find it.

14 Q. There was a lot of search, was there not, the day of this
15 arrest in connection with this Complaint?

16 A. Yes. Two searches did not reveal the remainder of the
17 combined 4 pounds of explosive material.

18 Q. We sort of started the conversation with whether or not
19 you had had conversations with experts at the FBI regarding
20 that quantity. I take it they observed this video and the
21 fire burn that stemmed from the explosion and were able to
22 make that assessment from viewing the video?

23 A. Yes. Their assumption was that or their assessment to me
24 was that just a very small portion of the total chemical would
25 be consumed leaving the potential for a much larger explosion

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1 if the remainder of the chemicals were used or employed
2 criminally.

3 Q. Was there also, among the Signal messages on July 12,
4 2024, an image and some communications between Mr. Hamad and
5 another individual during which he is wearing a sweatshirt,
6 the sweatshirt previously identified in the earlier paragraph
7 in Government's Exhibit 1?

8 A. Yes, we did locate a photo. It was taken in a place that
9 I now know because I have been there a couple times. It is a
10 second floor bathroom of the Defendant's residence, and the
11 photo is of Mr. Mohamad Hamad wearing a green headband bearing
12 the Hamas logo, dark jeans and a black hooded sweatshirt with
13 the words "Respect Existence or Expect Resistance." This is
14 the same sweatshirt that I described previously also bearing
15 the red upside down triangle. Mr. Hamad is holding a flag and
16 it appears to be half United States and half Israel. We are
17 not able to see the words on the flag, but I believe it says
18 "We stand with Israel," and the photograph is in here.

19 Also depicted in the photo is Mr. Hamad's right index
20 finger pointed upward, and this is a symbol frequently used to
21 signify Tawhid, and this is a tenet of the Islam asserting
22 one's oneness with Allah. The same pointing in the air has
23 been featured in propaganda from a number of foreign
24 designated terrorist organizations.

25 Q. And he's engaging in conversation with the photograph.

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1 I'm looking specifically at Government's Exhibit 1, Paragraph
2 34F?

3 A. Yes. In a chat string on July 12, 2024, Defendant Hamad
4 claimed that he "yoinked that shit," which I understand to
5 mean stole or took, adding that "We don't play." The
6 individual responded, "Pull up looking like that," Defendant
7 Hamad replied, "I really did LMAO," which is short for laugh
8 my ass off. Further quoted, "imagine the terror they saw if
9 they had cams. Hamas operative ripping off their flags in
10 white suburbia."

11 Q. You conducted some further investigation to determine
12 whether or not there was any other activity ongoing related to
13 protests and other things on July 12, 2024; is that correct?

14 A. Yes, it is. And it is also referenced in further
15 conversations within the chat that there was a protest at the
16 Pitt chancellor's residence on July 12th which coincided with
17 and -- not coincided. And there was mention of the Pitt
18 chancellor's residence or being across from the Pitt
19 chancellor's residence within the cell phone data.

20 Q. So if I understand you correctly, there was conversation
21 between Mr. Hamad and another individual in a Signal chat
22 session during which he speaks about being across from the
23 chancellor's residence and you confirmed separately that there
24 was, in fact, a protest there on that date?

25 A. Yes, there was. That's correct.

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1 Q. Subsection G of the same paragraph depicts a conversation
2 between Ms. Lubit and the Defendant. If you could speak a
3 little bit to this conversation. Was this messaging -- or was
4 this message notifications that were observable during the
5 forensic analysis of the contents of the phone?

6 A. The messaging from Defendant Lubit on July 28th was in a
7 group chat of which Defendant Hamad was also a part of.
8 During that time, Defendant Lubit uses the name Warsaw, and is
9 attempting to establish a photo for the group and to make that
10 photo as part of the cover page for the group. And I think
11 the context is "Should this be the photo," and the photo
12 depicts a person leaning out of a window holding some sort of
13 military style rifle.

14 Q. In this particular chat, you can only see the statements
15 being made by Warsaw; is that correct?

16 A. That's correct.

17 Q. On the second page, a continuation of that chat session,
18 on 7/28, and just for clarity purposes, this is the day before
19 the vandalism incident at the Chabad?

20 A. That's correct.

21 Q. Warsaw has two other comments with content. If you could
22 just read those into the record, please.

23 A. Username Warsaw sends message, "Fuck Zionists," and then
24 also "Facts," and the "Facts" is accompanied by an Israeli
25 flag with the star of David, the central symbol, removed and

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1 it is replaced by the Nazi swastika capriciously.

2 Q. In addition to this group chat, you recovered -- correct
3 me if I'm wrong -- singular conversations of Signal messaging
4 between Mr. Hamad and Ms. Lubit?

5 A. That's correct. That conversation began approximately
6 July 27th and went through and after the criminal incident.

7 Q. I know this is kind of long, but it is important to the
8 offenses charged, so I'm going to ask you if Subparagraph H
9 accurately depicts the conversations or the messaging
10 conversation between them, or rather it is all from Warsaw; is
11 that correct? You picked up?

12 A. Yeah. It is from Defendant Lubit to Defendant Hamad.

13 Q. But we don't see in this test chart what Mr. Hamad is
14 saying back to her?

15 A. No. We don't see that in this chart.

16 Q. If you could please just read into the record what she is
17 saying so that we understand the flow of the conversation
18 shortly before the incident.

19 A. Yes. In chronological order, with the date of July 27,
20 2024, 9:25 p.m., just in chronological order: "If I join you
21 in doing graffiti on this building, it matters to me that it
22 is done in good taste. But any bank or anything else that's
23 not a religious institution, I'm happy to trash."

24 Next message: "I wish I knew how to paint damn."

25 Next message: "We only have one shot cuz" -- spelled

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1 C-U-Z. "After that they will have much higher surveillance.
2 I think it's wise for them to see other buildings like PNC and
3 stuff getting trashed first. So they are not like "You're
4 targeting the Jews."

5 Next message: "If we target Jewish institutions
6 before Zionist non Jewish ones I think they will see it as a
7 Jew V other thing."

8 Next message: "But I think I'm bad at art. What if
9 I enlist," and there are initials that are omitted.

10 Next message: "Actually there's a lot of places I
11 could do this. There's a lot of Jewish institutions around."

12 Next message: "Oh, fuck it."

13 Next message: "I'll do it."

14 Next message: "The thing."

15 Next message: "Decorating Chabad."

16 Next message: "Trying to make it ugly and obnoxious
17 feels like borderline desecration of religious place."

18 Next message: "Like right before the line."

19 Next message: "They usually use buildings for
20 synagogues. Idk" -- which is short for I don't know -- "why
21 they use their own spaces." "Idk if its a funding thing or a
22 lack of people thing."

23 Next message: "They probs use that space as their
24 prayer space even though it's not fancy at all."

25 Next message: "Hence why I said the art needs to not

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1 look like it's an attempt to vandalize."

2 Next message: "Why can't it be blue spray paint."

3 Next message: "I'll do it."

4 Next message: "Spray paint it is."

5 Next message: "How far you from Walmart."

6 Next message: "I can literally feel myself starting
7 to see Jews as my enemies."

8 Next message: "Well, the vandalism part is the part
9 I'm most fearful of. I mean, I guess I can just watch a
10 documentary about Gaza & read some stuff and wait. I want to
11 feel supported in this stuff and not like, I'm gonna let
12 everyone down if I do it wrong."

13 Next message, going into July 28, 2024, in
14 chronological order, starting at 11:40 p.m., still Defendant
15 Lubit messaging Defendant Hamad: "Scares me that I want
16 revenge. I can feel it. Like, I'm ANGRY," and "angry" is in
17 all caps. "I'm so tired of feeling like being Jewish means I
18 have to second guess being anti oppression. I will not
19 survive being Jewish if I don't learn to get past that. I'll
20 just end up abandoning it."

21 Next message: "I'd ask Nat for paint but then
22 someone would know I was up to something."

23 Next message: "I am in the danger zone doing that."

24 Next message: "I'm tired of the voice in my head,
25 telling me that a Jew would not go with the oppressed."

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1 Next message: "Every day I think, 'I don't want to
2 be Jewish any more.'"

3 Next message: "This feels kind of like a last ditch
4 attempt at staying Jewish."

5 Next message: "Actually you've given me hope."

6 Next message: "So you might need to keep me in check
7 today."

8 Next message: "Or don't."

9 And that conversation string ends July 28, 2024 at
10 approximately 11:46 p.m.

11 Q. If you could just remind the Court the approximate time
12 that the surveillance video footage and license plate
13 information put Mr. Hamad at Ms. Lubit's residence on the 29th
14 before the vandalism took place?

15 A. The text conversation ends roughly 34 minutes before I'm
16 able to see Defendant Mohamad Hamad's car on video in the area
17 of approximately a block away from [REDACTED] on
18 camera.

19 Q. During the time --

20 THE COURT: My apologies. Will you remind the Court
21 the time that the vehicle, the BMW vehicle, arrived at
22 Ms. Lubit's residence on the 29th. It was 1 something.

23 THE WITNESS: It was approximately 0120 a.m.

24 THE COURT: Thank you.

25 A. And that arrival is -- we don't have camera of the vehicle

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1 driving in front, but we have camera within the vicinity.

2 I'll estimate it about a block-and-a-half away.

3 Q. Then correct me if I'm wrong, the video footage placed the
4 vehicle in front of the Chabad at 1:49, I believe,
5 approximately 25 minutes after that?

6 A. I have 0146 hours.

7 Q. Excuse me. I apologize.

8 A. That may have a very slight discrepancy, because many
9 times DVRs, the devices that hold video, are set by humans, so
10 it is very common to have a minute or two difference among all
11 of the camera systems.

12 Q. Once you acquired the content of what we have been
13 discussing at some length from Mr. Hamad's cell phone, you and
14 the other agents sought search warrants for Ms. Lubit's
15 residence, is that correct, as well as her person and
16 electronic devices?

17 A. Yes; that's correct.

18 Q. And correct me if I'm wrong, those search warrants were
19 executed on September 13, 2024; is that correct?

20 A. Yes. September -- give me one second.

21 Q. I think it is described in Paragraph 37.

22 A. 37. September 13th. Yes, you're correct.

23 Q. Had Ms. Lubit moved from the residence on Melwood to a new
24 residence by that time?

25 A. Yes. We had spoken with the Sterling Land Company, which

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1 is the owner and operator of 245 Melwood Avenue, the building,
2 and we received information that Defendant Lubit had moved to
3 a new location which was at [REDACTED] within
4 Pittsburgh, PA.

5 Q. When you executed the search, was Ms. Lubit at home?

6 A. Yes.

7 Q. Was her cell phone at some point located and taken into
8 custody?

9 A. Yes, it was. It was cell phone, laptop, and other things
10 not listed within this bulletin point, but a cell phone and
11 laptop.

12 Q. Was it Special Agent Brian Collins who, in fact, took
13 possession of the cell phone?

14 A. Yes, he did.

15 Q. Did he make an endeavor at some point shortly after
16 seizing the phone to place it into airplane mode to preserve
17 evidence?

18 A. Yes. We placed it in airplane mode to prevent
19 unauthorized access via Wi-Fi or outside intrusions so the
20 data cannot be lost.

21 Q. Do you know from speaking with him or being present at the
22 scene whether he had difficulty getting the phone into
23 airplane mode?

24 A. Yes, he did. The phone had many cracks on the screen
25 which made it difficult, and at some point Agent Collins was

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1 holding the phone and Ms. Lubit attempted to take it from him,
2 making like a quick grabbing action, at which time Agent
3 Collins basically said no and retained the phone in his grasp
4 and was able to put it on airplane mode.

5 Q. Ultimately that cell phone and the computer were at least
6 or are in process of full forensic evaluation, but there was
7 some content obtained from it depicting conversations I
8 believe using Signal as well, maybe in that application,
9 communications between Ms. Lubit and others in and around
10 September 10th through September 11, 2024 reflected in
11 Subparagraph B of Paragraph 38 of Government's Exhibit 1?

12 A. Yes. We observed based on the audit trail and the date of
13 recovery that on August 7, 2024, which was a day after the
14 execution of the search of Defendant Hamad's residence, that
15 the phone possessed by Defendant Lubit had been factory reset,
16 essentially erasing all data prior to that date, and then
17 after that factory reset, numerous text messages were located
18 on the Signal app and the content of those text messages I'll
19 read similarly to how I did the previous one.

20 Q. Before you do that, just so the record is clear, the reset
21 of the entire content of the phone was done on what date?

22 A. That was August 7, 2024, one day after the execution of
23 the search at Hamad's residence.

24 Q. Thank you. You may go ahead.

25 A. The content of these messages between September 10, 2024

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1 and September 11, 2024: "I had to disappear for a bit cuz of
2 legal stuff. But I'm back."

3 Next message: "I had to kind of go for a while cuz I
4 was dealing with legal stuff."

5 Next message: "I just got this. I'm sorry I was
6 dealing with legal issues so I had my phone reset and almost
7 nobody could text me on signal."

8 Next message: "Then I had legal issues to deal with
9 so that sucked but it is much better now."

10 Next message: "And I want to make a pro resistance
11 group. I was starting to but then I had to dip cuz I was
12 dealing with serious legal issues."

13 Next message: "Is the resistance chat still around?
14 If so can you read me." R-E-A-D-D is misspelled. I had to
15 leave cuz legal issues." And these messages were to different
16 individuals.

17 Q. During the execution of the search of Ms. Lubit's
18 residence, were any of the subject explosive powders found?

19 A. No, they were not, and they have yet to be found.

20 MS. BLOCH: Give me one moment, Your Honor.

21 THE COURT: Please.

22 MS. BLOCH: I have no further questions.

23 THE COURT: Thank you. First to Attorney Olaiya, do
24 you have any cross-examination for this witness?

25 MS. OLAIYA: Yes, Your Honor, we do.

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1 THE COURT: Proceed, please.

2 MS. OLAIYA: I'll ask for permission to remain seated
3 just to better access my note.

4 THE COURT: Please.

5 MS. OLAIYA: Additionally, I would like to request
6 for a housekeeping matter, for the sake of the transcript, for
7 the addresses that were mentioned during this hearing to be
8 redacted, just to ensure safety of the accused.

9 THE COURT: Any objection on behalf of the
10 government?

11 MS. BLOCH: No objection.

12 THE COURT: Okay. They will be redacted.

13 MS. OLAIYA: Thank you, Your Honor.

14 **CROSS-EXAMINATION**

15 BY MS. OLAIYA:

16 Q. Good morning, Detective Derbish. My name is Yemi Olaiya.
17 I'm going to be asking you a few questions, but if you need me
18 to clarify anything, just let me know, okay?

19 A. Yes.

20 Q. All right. Can you clarify exactly when were you assigned
21 to this case?

22 A. I would have been notified of the case probably by email
23 to my unit, an email group within the intelligence unit, and
24 we circulate information on a daily basis. So I would say the
25 morning that the graffiti was discovered, I probably received

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1 an email, but my involvement probably started August 1st or
2 2nd, so maybe a day later or a day afterwards.

3 Q. Okay. Now, when you say your involvement, do you mean the
4 actual investigation, execution of search warrants, the full
5 inclusion of what would be entailed in a typical police
6 investigation?

7 A. Yes. So I work jointly with the FBI and the Pittsburgh
8 police. I investigate federal crimes and also state crimes.
9 And I wear that hat sometimes at the same time, both hats at
10 the same time. So when I receive information that may be a
11 federal crime, I'll pass it to the FBI, and I will join the
12 FBI within that investigation. For that investigation, I was
13 present during trash pull, various points of surveillance, and
14 the execution of two search warrants at Defendant Mohamad
15 Hamad's house.

16 Q. Okay. Now, for the surveillance, there was surveillance
17 outside of the Chabad; correct?

18 A. Surveillance video, yes.

19 Q. But there was not any outside of the Jewish Federation?

20 A. Not that I'm aware of. If I didn't already mention the
21 Jewish Federation, it was also spray-painted at about the same
22 time and that spray-paint depicted the text, an arrow
23 underneath the words "Jewish Federation" with the words in red
24 spray-paint "Funds genocide, heart Jews, hate Zions," and that
25 was also reported to the Pittsburgh police at about the same

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1 time, the same morning.

2 Q. Is this the picture that you're referring to, Government's
3 Exhibit 1 under Paragraph 19?

4 A. Yes, it is.

5 Q. Okay. So there is a sign that says "Jewish Federation"
6 and then a red arrow; correct?

7 A. Yes.

8 Q. And that red arrow says "Funds genocide"?

9 A. Yes.

10 Q. So that would mean Jewish Federation funds genocide?

11 A. Yes.

12 Q. Okay. And then there's a second line that says "heart" or
13 "love Jews, hate Zions"; is that correct?

14 A. Yes.

15 Q. Now, how many incidents have you gathered surveillance on?
16 You mentioned CMU police, Pitt police, how many in total?

17 A. City of Pittsburgh police definitely. The video from
18 Chabad, CMU police assisted with the LPR and their own video.
19 I believe that's three.

20 Q. Were each of those videos preserved?

21 A. As far as I know, yes.

22 Q. You watched each of them individually yourself?

23 A. Not in totality. But I've watched enough to say the
24 video, at least in the City of Pittsburgh videos -- I'm sorry.
25 The vehicle in the City of Pittsburgh videos is consistent

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1 with the Defendant, Mohamad Hamad's car.

2 Q. Okay. Now, I'm going to back up for a second. You said
3 as far as you know, the videos have been preserved. Was there
4 a request to preserve them?

5 A. So for the City of Pittsburgh, I requested those ones,
6 those videos be preserved. I can't speak for the CMU police.
7 I think it would be a logical step, but I did not make the
8 request to CMU police to do the preservation.

9 Q. Did anybody else from your office or connected to this
10 investigation make a request to preserve that surveillance to
11 CMU?

12 A. Like I said, it would be a logical step. I'm not positive
13 I have that information.

14 Q. Now, you mentioned the vehicle that was at issue in this
15 case, so I want to address some of the things that you
16 mentioned on direct. I know that you mentioned the suspect
17 vehicle was located in Oakland. Can you clarify a little bit
18 more about that. When was that vehicle located in Oakland?

19 A. On the night of the incident.

20 Q. I'm not sure you stated on direct it was located in
21 Oakland.

22 A. Sure. So based on the license plate recognition, we have
23 photos -- we have still photos of the vehicle belonging to
24 Mr. Mohamad Hamad over the course of time, so even prior to
25 the criminal incident and after the criminal incident, we have

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1 video or photos of the vehicle.

2 Q. Okay. So when was the location of the Oakland -- how does
3 that fall into the timeline of this incident?

4 A. For speaking to license plate recognition specifically, or
5 the video itself that we have?

6 Q. Just the significance that the vehicle was located in
7 Oakland. What is it, since you mentioned it?

8 A. It is very close to the location of the co-Defendant at
9 [REDACTED]. It is also basically the center of
10 community life for people of the Jewish faith. There is a
11 number of centrally-located synagogues, places of worship
12 within Shadyside/Squirrel Hill area, and that is right
13 adjacent to the Oakland neighborhood.

14 Q. So the incident, that occurred on July 29th; correct?

15 A. Yes, the early morning hours of July 29th.

16 Q. And the license plate reader, all the still photos that
17 you have of the vehicle are related to the license plate
18 reader; correct?

19 A. No. We have video of the vehicle separately. We also
20 have license plate recognition photos of the vehicle. Those
21 devices can be combined, but in the case of the City of
22 Pittsburgh, those are separate things. CMU or the University
23 of Pittsburgh will have access to different video and
24 different license plate readers than the City of Pittsburgh
25 will have. So that's why we all talk about -- we all make

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1 requests of each other to look for data, to look for evidence
2 for any number of criminal incidents.

3 Q. Do you have surveillance and images from the license plate
4 reader from before July 29th?

5 A. Yes. We have photos. We have license plate photos of the
6 vehicle prior to July 29th.

7 Q. What is the earliest date that you have them from?

8 A. I don't recall the earliest date. I know that the data
9 system used for license plate recognition typically lasts
10 about six months, and the City of Pittsburgh's data system
11 lasts for ten days, so for the City of Pittsburgh, the
12 earliest I would have would be approximately July 19th. I
13 don't know if we have that data, but that would be -- the
14 earlier time period would be ten days for the City of
15 Pittsburgh and six months for the outside agencies using a
16 different license plate system.

17 Q. Now, actual contact, law enforcement contact with the
18 vehicles, that wasn't until the search warrants were executed?

19 A. No. I observed that vehicle in the garage prior to --
20 approximately a week prior to the search warrant. If I
21 remember correctly, August 1st or August 2nd.

22 Q. Okay. So a couple days after the original incident?

23 A. Yes. After the incident, we began the investigation, and
24 once we learned that the license plate was connected locally,
25 we began driving past residences to see if we could see the

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1 vehicle. And when we did see the vehicle, I was able to
2 confirm that it looked remarkably like the vehicle in the
3 video we had.

4 Q. Okay. Now, the vehicle itself, who was it registered to?

5 A. I believe it is registered under Ohio registration to
6 Iptasim Hamad, which is Defendant Hamad's mother.

7 Q. Okay. And the license plate, what name, if any, is that
8 connected to?

9 A. The residence at -- just give me one second. I can find
10 that for you. I don't have that information in this
11 affidavit, but there was a connection between the owner, the
12 residence and the vehicle, and also Mohamad Hamad's driver's
13 license, which all list the same address.

14 Q. Now, in Paragraph 27 in Government's Exhibit 1, it
15 mentions that there was an Accurint run done on the vehicle
16 and it was understood to be associated with an Ohio address.

17 A. Yes. I see that.

18 Q. So who is living or owns that Ohio address that the car
19 was also connected to?

20 A. I don't have that information.

21 Q. So it is another unidentified person thus far?

22 A. The third party referenced I believe is Mohamad Hamad's
23 mother, and the address I believe was a prior address. The
24 family had lived there in the past, but was currently residing
25 at [REDACTED].

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1 Q. Is that what the Accurint revealed?

2 A. I don't have the full report. Just going from memory, I
3 think that's accurate.

4 Q. Can you confirm where is the vehicle now? Is it still in
5 the custody of law enforcement?

6 A. I believe the vehicle is -- the last known location of the
7 vehicle was the location of the arrest. No. I'm sorry. I
8 believe it is in his garage. I believe it is in the garage of
9 [REDACTED]. That was the last place I know it
10 was.

11 Q. So it was only searched from -- the search warrants were
12 executed. It wasn't seized or taken away, moved away from the
13 property?

14 A. No. We had no reason to remove the vehicle. We were able
15 to search it, and we left it in place.

16 Q. Okay. Just to clarify, so for Paragraph 27 when it says
17 that the vehicle is registered to a third party in Dayton,
18 Ohio, there is another mention of an Ohio address. Is that
19 the same address, or are there two different addresses being
20 referenced in this paragraph with regards to Ohio?

21 A. I believe the only Ohio address referenced 1416 Robinhood
22 Drive, and that is the Ohio license plate registration
23 address. After reading this further, Accurint, the database,
24 associates the address [REDACTED] with this
25 vehicle by license plate.

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1 Q. Okay. Now, you did two searches on the home; correct?

2 A. Yes. Two searches on [REDACTED].

3 Q. You were present for both of them?

4 A. Yes, I was.

5 Q. Okay. So for the first search, what time of the day did
6 you first arrive at the house?

7 A. I would have to go back and look at the logs for the start
8 and end. I would have to say before lunch, we arrived, and we
9 were there approximately seven hours for the first search.

10 Q. Excuse me. This was the August 1, 2024 date; correct?

11 A. Yes.

12 Q. Okay. Were you present --

13 A. Wait, I'm sorry. What date did you reference?

14 Q. August 1st.

15 A. I believe it was August 6th.

16 Q. Okay. Thank you. Now, did you or other officers have
17 body-worn cameras during the search of the home?

18 A. I don't believe so.

19 Q. What about during any other interactions while you were at
20 the home?

21 A. There may be some body-worn camera. I wasn't wearing one,
22 and at certain times the FBI prohibits us from wearing
23 body-worn cameras unless we have a planned event. And in this
24 instance, this warrant was unplanned.

25 Q. What was the mechanism that was used to record the

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1 conversation that you mentioned on direct?

2 A. I don't know. I did not see a recorder activated. I
3 don't know what mechanism we recorded.

4 Q. But it was another agent that works with you?

5 A. Yes, Agent Collins.

6 Q. Okay. Do you know if that recording has been preserved?

7 A. I believe it has been preserved, and we are currently
8 awaiting the transcript from a contractor.

9 Q. Are there other recorded conversations in relation to this
10 investigation?

11 A. Unless other officers were wearing cameras, I don't know.
12 I don't believe so.

13 Q. I mean outside of the search as well, too?

14 A. Yes. Unless, like, for example, I called 911 to assist
15 Abdalla Hamad, who was having a medical issue, and a Moon
16 Township police officer arrived on scene, so that officer may
17 have a body camera. There were a number of officers and a
18 number of agencies that did assist in both searches. So they
19 may have body camera footage.

20 Q. Not just body-cam; any other type of recording of
21 conversations?

22 A. Could you give me an example?

23 Q. Sure. Like you're talking to somebody perhaps in relation
24 to this case. Were conversations like that recorded?

25 A. I do not have any recording devices.

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1 Q. Or any other law enforcement working on this case?

2 A. If it wasn't the one recording that we mentioned by Agent
3 Collins or any separate Agency's body camera, then I'm not
4 aware of it.

5 Q. Okay. For a second I want to go back to the LPR video,
6 please, or surveillance and the images that they captured. So
7 when the plates are ran, there is information that also
8 becomes available whenever law enforcement runs that
9 information?

10 A. So the license plate recognition cameras only document
11 time, date, location and photographs of the vehicles involved.
12 And those are categorized a number of ways. And they are
13 searchable according to state, color, model of the vehicle,
14 various -- or date and time.

15 Q. Right. So when you searched the information, did you
16 search the information that's connected to that specific
17 license plate?

18 A. I searched for prior City of Pittsburgh LPR, and I recall
19 that there was some -- within the last ten days, there was
20 activity. For the purposes of this, I believe the CMU police
21 used access to LPR that they have.

22 Q. So LPR, aside from the actual license plate, you didn't do
23 any further investigation into that specifically?

24 A. I'm not sure if I understand that question.

25 Q. Sure. So when law enforcement runs a license plate, it

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1 can come up with an individual, for example, who is connected
2 to it. Did you do that in this case?

3 A. I personally did not. I have the Accurint and NCIC
4 database. I see these were queried. I did not do that
5 personally.

6 Q. Okay. Did you follow up on what those queries were, what
7 information was gathered from those queries?

8 A. No, I didn't, but in talking with Abdalla Hamad, Defendant
9 Hamad's father, he did say that his son drives that BMW.

10 Q. Okay. So you don't know whether or not there are
11 particular individuals who were connected to that particular
12 license plate number?

13 A. Yes. The only person we have been able to confirm driving
14 the vehicle is the Defendant.

15 Q. Excuse me. During the queries of the license plate
16 itself?

17 A. During a query, we were able to get the owner's
18 information that is maintained by the state of Ohio. The
19 Defendant has a number of traffic tickets. I can go back to
20 see if it was that, that vehicle, but I did not do that as of
21 yet.

22 Q. And the surveillance that was pulled from the actual
23 evening of July 29th, were you able to positively identify
24 Mr. Hamad in any of those surveillance videos?

25 A. No. No. The video is a depiction of the vehicle itself.

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1 I was not able to make a positive ID from any video other than
2 the Walmart video.

3 Q. Okay. Going back to the house, how long were you at the
4 house before you obtained a search warrant?

5 A. It was a couple hours. I don't have the exact time, but
6 we had no plans of doing a search warrant that day. But we
7 accelerated the process when we realized that we could be
8 losing evidence. So Agent Collins departed and essentially
9 wrote the search warrant himself, swore it out and returned
10 with the search warrant before we began our search.

11 Q. So you stayed at the house while Agent Collins retrieved
12 the search warrant?

13 A. Yes. We occupied the house for the entire duration.

14 Q. You followed family members within the house throughout
15 that time?

16 A. Loosely, yes. Certainly not to the bathroom. We tried to
17 be minimally invasive, even though that was very difficult,
18 but we allowed the family to participate in any activity they
19 normally would. They were free to leave. They were not
20 detained, and like I said before, the limitation was on
21 acquiring weapons and potentially destroying evidence.

22 Q. Okay. So how long were you at the house before consent
23 was --

24 MS. BLOCH: Objection, Your Honor. This is now
25 teetering on suppression issues that don't go to probable

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1 cause.

2 MS. OLAIYA: Your Honor, this line of questioning is
3 appropriate as government has already elicited a lot of
4 testimony in regards to the specifics of the search, that
5 consent that had to do with it, so they opened the door. We
6 are allowed to ask questions about it on cross-examination.

7 THE COURT: So to the government's point, I do think
8 that some of this testimony that you are eliciting kind of is
9 in the realm of discovery a little bit beyond whether or not
10 you can undermine probable cause that has been averred in the
11 Complaint and testified to today.

12 Having said that, I will overrule the objection and
13 allow you a little latitude, but I do hope everyone
14 appreciates that this is not a discovery proceeding and that
15 the examination should squarely focus on probable cause.

16 MS. OLAIYA: Yes, Your Honor.

17 A. The time that myself and Agent Collins were at the
18 residence before Defendant Hamad withdrew consent, I would
19 have to estimate was between 10 and 15 minutes. We did -- and
20 I'm not even sure Defendant Hamad was aware that we were in
21 his house, because we came with his father and spoke with his
22 father and mother for some time before his father requested
23 that the Defendant come down to the first floor.

24 Q. So the search of the phone as well, too, there was only
25 one phone or two phones that you collected in relation to the

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1 search?

2 A. There was one phone seized during each search warrant.

3 Q. On two separate dates?

4 A. Two separate dates, so two phones total.

5 Q. Okay. Now, when you first arrived at the home, you at
6 that time had confiscated the phone or at what time did the
7 phone come in your possession?

8 A. Upon arrival at the residence, we entered with the father,
9 Abdalla Hamad. We spoke with him for a period of time. We
10 spoke with Mohamad's mother, and at some point after I had
11 explained all the things that we were looking for for
12 evidence, and I had explained that everyone was free to leave
13 and we were going to be obtaining a search warrant, there was
14 a conversation that I referenced earlier in Arabic between
15 Mohamad and his mother in which the word "telephone" was used.
16 That's the only word I recognized, but at the conclusion of
17 that conversation, and after we had already stated we were
18 securing the residence, Iptasim Hamad, Mohamad's mother, went
19 to the second floor unaccompanied, retrieved a black cell
20 phone and handed it in Mohamad's direction in front of me, at
21 which time I took possession of the phone and placed it on the
22 table.

23 Q. Okay. Did you manipulate the phone in any way?

24 A. I did not. I just simply prevented it from any of the
25 data being destroyed.

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1 Q. So once the search warrant were obtained, how long were
2 you at the house conducting a search?

3 A. It was a period of hours. Once again, I would have to
4 look at the log sheet for a positive time. Based on my
5 memory, we probably concluded around 6:00 or 7:00 p.m. if I
6 had to estimate.

7 Q. What time did you start the search?

8 A. It was early, before noon. It would be an estimation.
9 10:00 maybe, or 10:30. I started my shift at about 4:30 with
10 the trash pull and then responded.

11 Q. I'm sorry. 4:30 a.m.?

12 A. 4:30 a.m. for the trash pull. Went to Cranberry and
13 interviewed the father. We traveled back from Cranberry to
14 [REDACTED], at which time we entered the residence
15 with consent to search. And then at about that time, I would
16 have to say 10:00 to 10:30 a.m. approximately, but to be sure,
17 I would have to check the log.

18 Q. Okay.

19 A. The search warrant application itself took several hours.

20 Q. Were there any other phones that you collected or placed
21 on the table while you were waiting on the search warrant?

22 A. I don't believe so. I remember that other occupants of
23 the residence had their phones and were able to use them. I
24 specifically recognized the one that Mohamad was handed having
25 a black case, and that was the one I was concerned with,

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1 because he had it in his possession at Walmart. So I believed
2 that was his phone, and that's why I wanted to preserve that
3 specific phone.

4 Q. Okay. During your time in the house, you mentioned you
5 did follow family members and other occupants of the home at
6 that time; right?

7 A. Yes, reasonably. Like, for example, if someone had to go
8 to the bathroom, I just escorted the family member to the
9 bathroom and allowed them to use the bathroom privately.

10 Q. What about prayer? Did you prevent Mohamad from praying?

11 A. No. Mohamad was allowed to shower. And I don't believe
12 it was a full shower, but he described wanting to clean
13 himself. I allowed him to clean himself. I allowed him to
14 use the bathroom, and I allowed him to pray in any fashion
15 that he wanted to pray.

16 Q. While you were observing him?

17 A. Yes. Yes. And that was simply because the residents and
18 the occupants were in the house, and we had not searched it.
19 We did a check for other occupants, but there was nothing that
20 was going to prevent anyone from either destroying evidence or
21 moving evidence, so yes, there was some observation. I don't
22 believe the Defendant requested privacy, and he conducted his
23 prayers in the living room or adjacent to the living room
24 where we were all seated.

25 Q. Now, turning to your surveillance of Mr. Hamad, so before

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1 his arrest, he was being surveilled; correct?

2 A. So the arrest was much more recent than the search
3 warrant. Can you give me the timeframe?

4 Q. Just before this arrest of Mohamad, there was surveillance
5 being conducted of him.

6 A. I would say the surveillance prior to the search warrant
7 was --

8 Q. Not the search warrant; the arrest?

9 A. Prior to the arrest?

10 Q. Yes.

11 A. I was not involved in any surveillance prior to the
12 arrest. My involvement with this case ceased at the
13 conclusion of the first search warrant. I was asked to come
14 to the second search warrant because I had established some
15 rapport with the family, and I was able to speak with them
16 pretty easily, so hopefully a friendly face made the second
17 search warrant much easier for them.

18 Q. So as part of your investigation, are you aware of any
19 surveillance of Mohamad before his arrest occurred?

20 A. Yes. It would be common practice to continue to
21 investigate, to gather clues, so I'm sure there is some sort
22 of surveillance. I just didn't participate in it myself.

23 Q. Now, if there was any illegal activity that had been
24 observed during that surveillance, you would have been made
25 aware of that, correct, as part of a thorough investigation?

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1 A. I believe so, yes.

2 Q. And there was none; correct?

3 A. I'm not aware of any other criminal incidents that the
4 Defendant is involved in.

5 Q. Going to the incidents that you mentioned, I believe it
6 came to a halt in the Walmart parking lot, so you and your
7 partner, there was another law enforcement officer with you at
8 the time; correct?

9 A. Yes.

10 Q. Okay. You were both in an unmarked car?

11 A. That's correct. Unmarked car equipped with red and blue
12 lights and siren.

13 Q. But as soon as you got into that car, that unmarked
14 vehicle, the lights and sirens were not activated; correct?
15 They weren't activated until a later time.

16 A. That's correct.

17 Q. I want to turn to some of the photos and messages that you
18 also mentioned on your direct. In Government's Exhibit 1,
19 Paragraph 32, there is a picture of an individual with a hood
20 holding up two flags sewn together and their faces covered;
21 correct?

22 A. Yes. I see that photo.

23 Q. Okay. You believe this to be Hamad because of the
24 background?

25 THE COURT: I apologize. Are we at Paragraph 32, and

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1 what specifically?

2 MS. OLAIYA: Yes, Your Honor. Paragraph 32 on
3 Page 13.

4 THE COURT: Thank you.

5 Q. You believe this to be Mohamad because of the background
6 and the image, correct, the wall, the door, the surrounding
7 objects in the picture?

8 A. Yes. That's part of it. I also believe it to be him
9 because we located that sweatshirt in his room. We located
10 the headband. The background and the pink color and the door
11 is accurate within his residence, and he also -- the chat
12 thread on July 12th where he claims he "yoinked that shit,"
13 adding, "We don't play," eventually claiming responsibility
14 for taking the flag he is holding.

15 Q. I'm going to turn to another page within the report. Give
16 me just a minute. On Page 12, Subparagraph D, the name of
17 Petrenko is mentioned. It states they believe this person to
18 be an alias for Mr. Hamad. What information do they have to
19 support that?

20 A. The email purchases were on the Defendant's phone, and the
21 residence where the chemicals were delivered is the residence
22 of [REDACTED]. And then the information of the
23 purchase is located on his phone.

24 Q. None of those items were ever located; correct?

25 A. That's correct. Yes. The chemicals were not located. I

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1 believe that was part of the reason for the subsequent search
2 warrant, because there was potential, with the talk in the
3 text messages, of additional devices or additional explosions.

4 Q. You can't positively confirm whether or not someone else
5 had that sent to Mr. Hamad's residence; correct?

6 A. No, I can't.

7 Q. Now, turning still to this page, we are going to continue
8 on to Page 13, Subparagraph E and F. They both mention of
9 known individuals. Who are those known individuals?

10 A. Without additional context, such as the phone number, I
11 don't know. Unless it is listed, both sides of the
12 conversation are listed, I'm not sure who Individual 2 is in
13 Section F.

14 Q. But they are listed as known individuals, correct, in this
15 Complaint?

16 A. Yes. I believe they are known to the FBI. They are not
17 necessarily known to me or every person who has access.

18 Q. But they are likely known to the author of this report?

19 A. I would believe so, because the messages occurred between
20 two people. I'm sorry. Yes, the author of the report being
21 Special Agent Collins. Yes, I believe he would know.

22 Q. Okay. Now, I'm sorry. Going back one more time to the
23 picture on Page 14, you made mention on direct the Shaheed.
24 So there are different definitions for this word. Are you
25 aware of that?

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1 A. No, I'm not.

2 Q. Okay. So in your investigation, you didn't come across
3 the fact that it means "beloved" or "witness"?

4 A. No, I don't have that information.

5 Q. Okay. Going to your background, you mentioned that you
6 are part of a special task force with the FBI that
7 specifically focuses on terrorism; correct?

8 A. That's my assignments. I will generally help the FBI,
9 Pittsburgh office with anything that they would need, inside
10 and outside of the City of Pittsburgh.

11 Q. Okay.

12 A. So I do have designated assignments. I do work with the
13 FBI full-time.

14 Q. Okay. And it all encompasses terrorism in some respect;
15 correct?

16 A. No. If a different squad handling a drug investigation or
17 white collar crime -- if any squad asked me for help, I would
18 generally help as part of my daily duties.

19 Q. So how long have you been doing duties that relate to
20 terrorism?

21 A. My assignment has been about three years.

22 Q. Okay. And that would include having knowledge or
23 information that's both domestic and international; is that
24 fair to say?

25 A. Yes.

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1 Q. Okay. But you're unfamiliar with the different meaning of
2 Shaheed?

3 A. That's correct.

4 Q. So with Zionism, that's understood to be a national
5 ideology of Israel, or are you unfamiliar with that as well?

6 A. Could you repeat your definition.

7 Q. Sure. National ideology associated with Israel?

8 A. I believe that to be true.

9 Q. Okay. So it isn't necessarily a religious or -- let me
10 put it this way. It is not an established tenet of Jewish
11 faith?

12 A. I'm not familiar with it enough to say that it is an
13 established or it is not an established tenet of Jewish faith.

14 Q. Now, in your work, you come across Zionists that are also
15 a part of war efforts such as the one that's currently going
16 on with the Israeli Palestinian conflict?

17 A. I don't know that I've ever personally interacted with
18 someone like that, but --

19 Q. Or just if you're familiar with it generally, even if you
20 don't have any personal interactions with persons such as
21 that?

22 A. Yes. I believe I am.

23 Q. Okay. There can be Christian Zionists as well. They can
24 run across different religions; correct?

25 A. I believe that anyone can identify with any type of

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1 religion that they could choose on any given day if they like
2 to. I think that's an individual choice.

3 Q. I'm referring to the national ideology that can be
4 associated with varying religions, just not Judaism?

5 MS. BLOCH: Objection. This witness does not know
6 something like that. He has already described his limited
7 knowledge what the term Zionism means.

8 MS. OLAIYA: Your Honor, I'm just exploring what the
9 witness already offered on direct in their extensive
10 background with law enforcement, particularly as it relates to
11 the FBI and anti-terrorism efforts. If he doesn't know that,
12 he can say it, but on cross-examination, I'm allowed to
13 explore what he knows or doesn't know.

14 MS. BLOCH: I believe he said he doesn't know.

15 THE COURT: I also believe he said he doesn't know.
16 While this objection is pending, did you testify previously
17 regarding the extent of your understanding whether or not
18 Zionists can also include Christianity faith?

19 THE WITNESS: Yes, I believe I did.

20 THE COURT: Attorney Olaiya, is there anything else
21 you would like to offer the Court for the Court's
22 consideration as it relates to the objection that's pending?

23 MS. OLAIYA: No, ma'am.

24 THE COURT: Sustained.

25 Q. So you talked a little bit earlier on direct past

DETECTIVE DAVID DERBISH - CROSS BY MS. OLAIYA

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1 incidents in the Pittsburgh community, different acts of
2 vandalism, things of that nature; correct?

3 A. Yes.

4 Q. Aside from these two current cases, how many of those have
5 been indicted federally?

6 A. I don't know. I don't know if there has been any other
7 ones indicted federally. But if we were to receive
8 information or probable cause to indict those federally, I
9 would hand it to the prosecutors and allow them to decide.

10 Q. So besides these two, you don't know of any others, but
11 from your testimony earlier since October 7th, there have been
12 a rise in incidents against Jewish people; correct?

13 A. That's correct.

14 Q. In the Pittsburgh community?

15 A. Yes.

16 Q. Okay. Now, I want to focus a little bit on the
17 information also that you got at some point. So were all of
18 the messages that you collected, they were from the device
19 itself, the respective devices?

20 A. Yes. Any of the messages referenced here were taken from
21 the cell phones.

22 Q. Okay. Just wanted to clarify that point.

23 MS. OLAIYA: If I can have one moment.

24 THE COURT: Please.

25 MS. OLAIYA: Thank you.

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1 Q. Now, going back to Walmart or, excuse me, the trash pull,
2 so that happened at 4:30 in the morning when you first arrived
3 to the residence on August 6th?

4 A. I don't have the exact time of arrival at hand. I
5 remember it was very early in the morning.

6 Q. It was still dark outside?

7 A. Yes.

8 Q. Okay. And Mr. Hamad -- or let me back up for a second.
9 At that time, you were in plainclothes?

10 A. That's correct.

11 Q. And this is also the same time you were driving your
12 unmarked vehicle?

13 A. That's correct.

14 Q. Okay. And Mr. Hamad tried to approach you, but you and
15 your partner left in the unmarked vehicle?

16 THE COURT: Apologies. When you say "Mr. Hamad," are
17 you referring to the Defendant or his father?

18 MS. OLAIYA: My client, Your Honor.

19 A. That's correct. We left.

20 Q. Okay. Now, at what point in time did you activate your
21 lights and sirens?

22 A. After it became clear to me that the Defendant was not
23 calling the police and that he was not going to relent at
24 essentially pursuing us. So I pulled into a well-lit area,
25 notified dispatch of what I was doing, and activated the

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1 lights and then approached the Defendant in this vehicle and
2 identified myself along with my partner.

3 Q. Okay. So towards the end of this pursuit is when you
4 identified yourself to my client?

5 A. Yes. I believe that's what ended it, the interaction.

6 MS. OLAIYA: Your Honor, at this time, I would like
7 to admit several exhibits for the purposes of the evidentiary
8 hearing portion, and I also, of course, have copies for the
9 Court and Ms. Bloch as well.

10 THE COURT: Just to be clear, this is for the
11 evidentiary portion in this proceeding, that being the
12 preliminary examination, whether or not there is probable
13 cause.

14 MS. OLAIYA: Correct, Your Honor. If you would like
15 me to do it now, or I can wait until Mr. Walker has a chance
16 to ask the witness questions.

17 THE COURT: I don't see why we would wait. If you
18 have a copy for the Court.

19 MS. OLAIYA: Yes, Your Honor.

20 MS. BLOCH: Are these exhibits you're offering for
21 the witness?

22 MS. OLAIYA: Just to clarify, it's for the
23 evidentiary hearing, not the preliminary hearing portion, so I
24 wouldn't be offering them to the witness.

25 THE COURT: In your case-in-chief? I'm so confused.

1 So is it in your case-in-chief that you're intending to offer
2 this and not use these for purposes of examination of the
3 witness?

4 MS. OLAIYA: Correct.

5 THE COURT: If you're done with your
6 cross-examination of Mr. Derbish, then we will proceed with
7 Attorney Walker.

8 MS. OLAIYA: Thank you, Your Honor.

9 THE COURT: Attorney Walker?

10 MR. WALKER: No questions, Your Honor.

11 THE COURT: Thank you. Any redirect?

12 MS. BLOCH: I just have a few questions, Your Honor.

13 **REDIRECT EXAMINATION**

14 BY MS. BLOCH:

15 Q. Just for clarification purposes, let's peek at the emailed
16 purchase records that were obtained from Mr. Hamad's phone for
17 the purchase of the 2 pounds each of the explosive powders.

18 A. True. Referencing Page 12, Section D?

19 Q. Well, above that. Actually D.

20 A. D. Okay.

21 Q. So this is the first time -- this is where the affidavit
22 speaks to those email records. Just so there is some
23 clarifications, if you know, were the emailed records directed
24 to Mr. Hamad in the name of this alias, Chris Petrenko?

25 A. I don't recall who the records were addressed to.

1 Q. You've testified that the records indicated that the
2 powders were delivered to his personal residence, that is,
3 Mr. Hamad's?

4 A. That's correct.

5 Q. After they were delivered, or purchased, I should say --
6 we don't know the delivery date, I presume?

7 A. That's correct. Unless it was located elsewhere on the
8 phone through some sort of delivery confirmation, I don't know
9 if we will know the delivery date.

10 Q. Okay. So shortly thereafter, you spoke to some Signal
11 message strings between Mr. Hamad and another individual
12 regarding using powders to create explosives and doing a test
13 run.

14 A. That's correct, yes.

15 Q. And that the test run was in anticipation of another
16 explosion to test whether it worked and whether it could
17 achieve certain things; is that correct?

18 A. Yes.

19 Q. In the context of that conversation, was there additional
20 conversations about an anticipated second or subsequent
21 explosion?

22 A. Yes. June 29th the quote is, "I kind of just want to test
23 it with you as I've never done something that big LOL and then
24 another day very soon we can do bro's ankles."

25 Q. Did you learn from the larger rendition of this exchange

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1 there was additional discussion about the bros ankles and
2 discussion about breaking concrete?

3 A. Yes. Let me find that for one second.

4 THE COURT: AUSA Bloch, will you re-ask that
5 question. I missed parts of it.

6 Q. You're speaking about a conversation between Mr. Hamad and
7 Individual 1 reflected in Subparagraph E of 34. Did that
8 conversation between the two of them go beyond the content of
9 this particular paragraph?

10 A. Yes, it did.

11 Q. Was there any discussion between the parties that
12 addressed the bros ankles?

13 A. Yes. There was additional context. After discussing this
14 "another day very soon we can do bros ankles," there was text
15 that said, "I just want to test it with you as I've never done
16 something that big," followed by, "It gives us more of a
17 chance to talk and test something fun while at the same time
18 seeing if what I made is going to be viable and work," and
19 this is with a separate individual. And there is a quote,
20 "You think with that new crazy shells and 4 to 5 cans, we
21 could really take bros ankles," three periods, "concrete
22 blow?" To which the Defendant replied, "We are going to have
23 to test it first and see how it holds up." The individual
24 replied, "We gone fuck shit up with some bad bitches. You
25 already got Brittany, already got me. Them bad bitches going

1 to be part of it all."

2 Q. Just for clarification, with respect to the trash pull and
3 the "pursuit" thereafter, it was the Defendant pursuing you,
4 not the reverse?

5 A. That's correct.

6 Q. And at some point in time you confirmed either with him or
7 did you confirm with the Moon Township police that at no time
8 did the Defendant call the police?

9 A. I confirmed with Allegheny County dispatch who covers all
10 of Allegheny County, and then separately Moon Township police
11 have their own dispatch because we had potentially crossed
12 multiple jurisdictions driving around, and there were no 911
13 calls placed by Mr. Mohamad Hamad.

14 MS. BLOCH: Thank you. No further questions.

15 THE COURT: On this redirect, is there any additional
16 cross-examination on this very narrow redirect?

17 MS. OLAIYA: Yes, Your Honor, briefly.

18 **RECROSS-EXAMINATION**

19 BY MS. OLAIYA:

20 Q. The messages depicting the so-called explosions, those
21 were not sent by my client, Mr. Hamad; correct?

22 A. I believe they were sent to him.

23 Q. Correct. Not by him?

24 A. Yes. To him.

25 Q. Okay. And in terms outside of the delivery confirmation,

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1 you stated that you saw delivery confirmation via the email
2 records; correct?

3 A. I don't believe I said that. I believe I said there may
4 have been a delivery confirmation, but I'm not aware of that.
5 That's one way that we would know how to confirm delivery. I
6 don't know that I saw that.

7 Q. Okay. So you found no documentation or other material
8 evidence showing that the delivery had actually been made?

9 A. I personally did not.

10 Q. And now following the text exchange on July 29th, are you
11 aware of any other additional conversations or evidence that
12 any action was taken to create additional incendiary materials
13 -- or June 29th. I am sorry. I think I might have said July.

14 A. Could you repeat that question one more time, just so I
15 can understand it better.

16 Q. Absolutely. So following the text message exchange on
17 June 29th of this year, are you aware of any additional
18 communications or evidence that any action was taken to create
19 any incendiary devices or materials?

20 A. I don't have that information with me. I don't have the
21 full extraction of the phone, but not to my knowledge at this
22 time.

23 MS. OLAIYA: No further questions, Your Honor.

24 THE COURT: Thank you. Any redirect?

25 MS. BLOCH: There is, Your Honor. Just as to these

1 last couple questions.

2 **REDIRECT EXAMINATION**

3 BY MS. BLOCH:

4 Q. Did you obtain information that additional purchases of
5 the tubes that are used to stuff the powder in were made after
6 the date on which the explosion, the test explosion, occurred?

7 A. Yes. We do have that information.

8 Q. Okay. So there were additional purchases made. Were
9 there email records of those purchases of the tubes?

10 A. Yes.

11 Q. I don't know. Am I calling them plugs or tubes?

12 A. They are cylindrical 1-inch wide cardboard tubes that they
13 are approximately 1 inch X 3 inches, somewhere around that
14 size range.

15 Q. During the search of his residence, did you see any of
16 those kinds of items in the house?

17 A. No, we did not.

18 Q. Do you recall at this time the approximate date following
19 the test explosion when those additional tubes were purchased?

20 A. I believe that was August 2nd.

21 Q. 2024?

22 A. Yes.

23 MS. BLOCH: No further questions.

24 THE COURT: Any follow-up?

25 MS. OLAIYA: No, Your Honor.

1 THE COURT: We will take a ten-minute break.

2 (Brief recess taken)

3 THE COURT: So does the government intend to present
4 any other evidence or witnesses in their case-in-chief?

5 MS. BLOCH: The government does not, Your Honor.

6 THE COURT: So the government rests?

7 MS. BLOCH: Yes, the government rests.

8 THE COURT: So turning first to Attorney Olaiya,
9 would you like to proceed with your case-in-chief.

10 MS. OLAIYA: With regard to the preliminary hearing,
11 Your Honor, we are not calling any witnesses.

12 THE COURT: Okay. I do have an exhibit. Is this
13 exhibit associated with the preliminary hearing?

14 MS. OLAIYA: No, Your Honor; with the evidentiary
15 hearing.

16 THE COURT: On behalf of your client, you will not be
17 proceeding with testimony or moving for the admission of any
18 exhibits?

19 MS. OLAIYA: Correct, Your Honor, for the sake of the
20 preliminary hearing.

21 THE COURT: Thank you. Attorney Walker, as it
22 relates to Ms. Lubit, do you have any witnesses that you
23 intend to call to testify?

24 MR. WALKER: No, Your Honor.

25 THE COURT: Do you have the presentation of any

1 exhibits for the Court's consideration?

2 MR. WALKER: No, Your Honor.

3 THE COURT: Thank you. Does the government intend to
4 provide a closing argument to the Court related to this
5 proceeding, the preliminary hearing?

6 MS. BLOCH: Your Honor, I just have a few thoughts to
7 just summarize what's been presented here today. I recognize
8 that the Court has heard a lot of testimony today, and I'm
9 sure that you can, without those thoughts, arrive --

10 THE COURT: But you're going to deliver them anyway.

11 MS. BLOCH: Just a couple things. I just want to say
12 that --

13 THE COURT: You have every right to. Please.

14 MS. BLOCH: -- I believe that the witness has
15 provided more than ample evidence establishing probable cause
16 to believe that both Defendants have committed the violations
17 as charged in the Complaint, has provided sufficient evidence
18 to meet all elements as reflected in Paragraph 5 of the
19 Government's Exhibit No. 1, that is, that the individuals
20 defaced, damaged or destroyed religious real property or
21 attempted to do so; that the individuals acted intentionally
22 and the individuals acted because of the race, color or ethnic
23 characteristics of the individuals associated with that
24 religious real property. It is abundantly clear from the
25 reading, and I know I painfully insisted that the witness read

1 each of the messages on July 27th into July 28th so that the
2 Court could see exactly what the parties were agreeing to,
3 exactly what the parties understood the acts that they were
4 about to commit included.

5 They established clearly that they recognized that
6 the Chabad is a religious institution, that is, a place for
7 Jews to pray. Most importantly, they recognized that -- they
8 acknowledge that they are choosing the Jewish institutions on
9 which to place the graffiti. The message clearly is an
10 attempt directed -- I should say the message is directed to
11 Jews. They chose a Jewish synagogue to do it on. They chose
12 to use a symbol directly associated with Hamas. It fully
13 establishes every element of both the conspiracy and the
14 247(c) offense.

15 THE COURT: Thank you. Attorney Olaiya, on behalf of
16 your client, Mr. Hamad, did you have a closing statement?

17 MS. OLAIYA: We are reserving argument at this time.

18 THE COURT: Attorney Walker, on behalf of your
19 client, Ms. Lubit, do you have a closing statement you would
20 like to make for the Court's consideration?

21 MR. WALKER: I do, Your Honor. As the Court is
22 well-aware, the hallmark of any preliminary hearing is whether
23 or not there was a crime committed and whether Ms. Lubit is
24 the person who committed the crime. Obviously credibility is
25 not an issue. Part and parcel to those requirements are

1 identification, so if you look at Government Exhibit 1 on
2 Page 7 and 8, bottom of Page 7, top of Page 8, Paragraph 22
3 and 23, they both stated in there clearly it is an
4 unidentified individual, unidentified person. It is not
5 Ms. Lubit's car. It is not Ms. Lubit at Walmart. It is not
6 Ms. Lubit purchasing the paint. It is not Ms. Lubit with the
7 paint being found in the house. It is not Ms. Lubit's house
8 being searched with all those other incendiary devices and all
9 the other context that she has nothing to do with. She was
10 not identified whatsoever either at the location or either at
11 the house or either being searched later on. We don't have
12 any testimony of her going to the car. We have testimony of
13 Mr. Hamad going to her house, possibly had his car. We don't
14 have her getting in the car, going to the location. We have
15 an unidentified person in Paragraph 7 and Paragraph 22 and
16 Paragraph 23. On top of that, we have two individuals because
17 the detectives or agents spoke about a person who was
18 unidentified having a female gait.

19 What do we have in Mr. Hamad's house? We have two
20 unidentified females under the age of 18 or under the age of
21 21. We don't know who was at that location. We don't have
22 paint on her hands, and we don't have paint cans in her
23 possession or at her house or in any of her belongings or any
24 of her cars or houses or effects, Your Honor. So I don't
25 believe they have met their burden as to identification, and I

1 would ask that you not find any probable cause as to
2 Ms. Lubit, Your Honor.

3 THE COURT: Thank you. So as it relates to the
4 preliminary hearing and whether or not there is probable
5 cause, I find that the testimony of TFO Derbish and the
6 evidence being Exhibit A, which has set forth the -- really
7 set out the investigation that was undertaken by the FBI and
8 the TFO regarding the events of July 29th and what transpired
9 at the Chabad location with the graffiti as well as the Jewish
10 Federation, I find that the testimony was both credible and
11 reliable and beyond sufficient, to some degree overwhelming.

12 Turning first to the latter points that Attorney
13 Walker made, which are well taken. In terms of
14 identification, I would point in the record to Page 15 wherein
15 two days prior to the incident, there was communication by and
16 between Ms. Lubit and Mr. Hamad regarding tagging and/or
17 defacing Jewish property, how to do so perhaps decently with
18 some kind of consideration and things of that nature, so as it
19 relates to whether or not there is information sufficient to
20 believe that Ms. Lubit had participated in these acts, I find
21 that there is probable cause to find that she did.

22 Turning to Mr. Hamad, also I find probable cause to
23 believe that he participated in these particular crimes that
24 have been set forth in this Complaint at Paragraph 5 and 6 in
25 the sense that as it relates to the vehicle, there was some

1 argument creditworthy to his counsel about whether or not the
2 video footage ever saw him in the car. Well, absent was any
3 testimony or any evidence that the car had ever been stolen,
4 outside of his possession. His father Hamad testified that he
5 does operate this particular vehicle. This particular vehicle
6 happens to be unique in characteristics because the front
7 wheels of the vehicle are distinct and different from perhaps,
8 let's say, another BMW sedan that would be on the road that's
9 also dark-colored.

10 Additionally, the Ohio license plate is registered to
11 his mother, and again, there has been no suggestion that at
12 any time that that vehicle was outside the possession or use
13 of Mr. Hamad.

14 Additionally, I mean, between the admitted Exhibit A
15 on behalf of the government and the testimony that was
16 elicited by TFO Derbish, I just find that there is no way
17 around believing that there is probable cause here to find
18 that in and around July 2024 through on or about July 2024, in
19 that district, that both Mr. Hamad and Ms. Lubit knowingly and
20 intentionally conspired, confederated and agreed to commit the
21 offense against the United States, that is, to deface, damage
22 and destroy religious real property in violation of Title 18
23 U.S.C. 247(c) contrary to the provisions of Title 18 U.S.C.
24 Section 37(1) and (2) on or about July 29, 2024 at
25 approximately 1:46 a.m.

1 I believe that they knowingly and intentionally
2 defaced and destroyed religious property that was owned by the
3 Chabad of Squirrel Hill because of racial and ethnic
4 characteristics, and that was laid bare for me in terms of the
5 communication by and between the parties, so both will be held
6 to answer in district court for the crimes that were set forth
7 in the Complaint.

8 Moving to the motion for reconsideration of the
9 conditions of release, I'll first hear from Attorney Olaiya
10 regarding the same.

11 MS. OLAIYA: Thank you, Your Honor. There are
12 additional exhibits that we would also like to admit. We have
13 sent over a copy to the government. With the Court's
14 permission, I'll approach to give the rest of the exhibits
15 that we have.

16 THE COURT: Please.

17 MS. OLAIYA: Thank you. Your Honor, for your
18 consideration for this evidentiary hearing, the defense had
19 submitted Exhibits A through E, the first one being Mr. Hamad
20 and a picture of him in addition to the Airman's Creed.
21 Mr. Hamad, to our knowledge, is still an active member of the
22 National Guard. Pending these charges, we believe he has been
23 placed on administrative leave; nevertheless, he has not been
24 discharged from his service, and we admit this as part of his
25 character evidence which the Court is allowed to consider when

1 determining what conditions, if any, are appropriate for an
2 accused person while they are on pretrial release.

3 Additionally, Your Honor, we also have Exhibit B,
4 which shows his academic achievements that he has been able to
5 accomplish, showing specifically the 364 -- I'm sorry -- the
6 location at which he achieved this and received the
7 recognition of Outstanding Academic Achievement, and he also
8 has on Exhibit C a certificate of training, both Exhibit C and
9 Exhibit B being parts of his service within the military and
10 his awarded recognition for that service.

11 Additionally, Your Honor, Exhibit D, we had a letter
12 here which essentially, Your Honor, the Court is more than
13 welcome to read it, but just to summarize, it notes
14 Mr. Hamad's character as being a kind and law-abiding person.
15 It describes him also as being a man of faith and the people
16 who have signed on to this letter never hearing or seeing
17 Mr. Hamad express any type of anger or hate for anyone based
18 on their religious affiliation, their race or any other
19 amenable characteristics they may have.

20 Attached to this exhibit, Your Honor, are
21 signatories. We believe it is a little over 30 names in
22 total, 30 signatures from people who are within the Pittsburgh
23 community who are able to attest to Mr. Hamad's character and
24 him being a peaceful and law-abiding United States citizen.

25 Finally, Your Honor, Defendant's Exhibit E. This is

1 a personal letter from Mr. Aaron Kuhns, who he does identify
2 as Jewish and he also owns a business. He signed on to this
3 letter and submitted it for the Court's consideration to talk
4 about Mr. Hamad and how he has had numerous interactions and
5 conversations with him, including conversations relating to
6 faith.

7 All these exhibits, Your Honor, we the defense would
8 move to admit these exhibits for your consideration.

9 THE COURT: Is there any objection?

10 MS. BLOCH: No objection, Your Honor.

11 THE COURT: So admitted. And that would be Exhibits
12 A, B, C, D, and E on behalf of Mr. Hamad.

13 MS. OLAIYA: Correct, Your Honor. Just to clarify,
14 the defense, we are prepared to address arguments, but I just
15 wanted to clarify if you wanted those arguments to be done now
16 orally, or if you prefer for them to be submitted via papers
17 or motions.

18 THE COURT: Well, it is up to you, but no, I prefer
19 them to be done orally. I do have a question for you in terms
20 of whether you want to provide this in your summation. I
21 would like to know what the defense counsel proposal is as it
22 relates to the conditions of release.

23 MS. OLAIYA: So there are four specific conditions
24 that were originally imposed on Mr. Hamad that the defense is
25 seeking to be stricken. First of those conditions, Your

1 Honor, it would be the fact that Mr. Hamad is on pretrial
2 detention. I can also reference at Document 17 within the ECF
3 filings of this case, those are the conditions specifically in
4 case Your Honor wants to go through them.

5 THE COURT: I have it before me.

6 MS. OLAIYA: Okay. So the pretrial home detention
7 that's No. 7(p)ii, and then Mr. Hamad -- the second condition
8 that defense would be addressing is the entirety of condition
9 7(g) which restricts Mr. Hamad from visiting any Jewish-owned
10 businesses, nonprofit organizations and educational
11 institutions. But the reading of 7(g) is a little bit
12 confusing, Your Honor.

13 My understanding of this is that Jewish has been
14 applied to modify only certain nouns in this condition, but it
15 is unclear. I think if it is technically, grammatically
16 correct, then it would be applied to every single one, but
17 either way, our argument would stand that it is
18 unconstitutional, which we will get to.

19 The third condition we would be objecting to is
20 Mr. Hamad cannot consume "extremist content." That's at 17,
21 Your Honor. Mostly with the fact that it's overly broad and
22 vague and unclear how that is to be defined and necessarily
23 flagged for Mr. Hamad so he can properly adhere to this
24 condition.

25 And the fourth condition we would be objecting to,

1 Your Honor, is that he must submit to drug testing which is
2 7(n). Of course, I have arguments addressing why each of
3 those conditions are improper.

4 THE COURT: Sure. I would like to hear it. This is
5 your motion. I would like you to go ahead and present.

6 MS. OLAIYA: Yes, Your Honor. So first, Your Honor,
7 as to home detention, I'll start, Your Honor, with the fact
8 that Mr. Hamad has no criminal history. None whatsoever.
9 This is his first time that he is having any type of
10 interaction with the criminal legal system. And it notes very
11 clearly, Your Honor, within Title 18 United States Code
12 Section 3142(C)(b), it makes clear, Your Honor, that a person
13 on pretrial release is only subject to the least restrictive
14 conditions that assure that person's appearance in court as
15 well as the safety of others or the community.

16 Mr. Hamad, Your Honor, being on home detention is
17 overly restricted and, quite frankly, unnecessary at this
18 point. The defense, Your Honor, is willing to make a
19 reasonable modification in that pretrial services could
20 maintain electronic monitoring of Mr. Hamad which would then
21 give them the ability to still monitor his movement, make sure
22 he is not leaving the country, for example, but again, that
23 has already been addressed because his passport has been
24 turned over. He has strong family ties here to the Pittsburgh
25 community. He, unfortunately, has an ill father which the

1 government witness testified to a bit. He requires a lot of
2 care, and Mr. Hamad is a very, very involved person when it
3 comes to his family and his faith. And again, he is an
4 American citizen, and this home detention has also prevented
5 him from being able to make and maintain gainful employment
6 which, of course, is also a condition of pretrial release.

7 THE COURT: Just to be clear, it says in terms of
8 restrictions related to home detention, it doesn't say he is
9 not allowed to leave in order to gain employment, but you read
10 that as saying that he cannot leave to attempt to gain
11 employment?

12 MS. OLAIYA: No, Your Honor. I meant in a practical
13 sense. Mr. Hamad has had difficulty being able to acquire a
14 job within his field of experience because of his home
15 detention, but we would be still seeking a curfew in addition
16 to maintaining the electronic monitoring, just asking for the
17 home detention portion to be removed.

18 THE COURT: So you're saying within the last week,
19 because it was last week, right, that you were here before the
20 Court, so you're saying within the last week, he started
21 having difficulty with obtaining employment because of home
22 detention?

23 MS. OLAIYA: Correct. When we met with pretrial
24 services, his employment, working as a mechanic, pretrial
25 services made clear that nature of that job, since it is not a

1 formal 9:00 to 5:00 establishment, he would not be able to
2 continue with that work.

3 THE COURT: Okay. Thank you.

4 MS. OLAIYA: Moving on, Your Honor, to the 7(g) in
5 its totality which restricts Mr. Hamad from visiting, again,
6 Jewish-owned businesses, nonprofit organizations, but
7 depending on how this is read, it seems like anything, any
8 noun within this condition would technically apply, the
9 modification of Jewish, so first off, Your Honor, this is
10 unConstitutional and it's violating the First Amendment in a
11 number of ways. No. 1, the fact that Mr. Hamad, as a United
12 States citizen, he does have the right to assembly. He has
13 the right to associate, whether it be at an educational
14 facility, nonprofit entity, he is able to do that and enjoy
15 that right as somebody who has not been convicted and who is
16 presumed innocent.

17 These conditions, Your Honor, imply that Mr. Hamad is
18 indeed guilty and do not maintain his presumption of
19 innocence. Not to mention, Your Honor, it also goes across
20 common sense in a lot of ways, mostly because it is not clear
21 how Mr. Hamad can be expected to know what is a Jewish entity
22 or business. It is not necessarily readily apparent with
23 every Jewish-owned business or nonprofit organization.
24 Sometimes it can be simply affiliated with other Jewish
25 entities, and again, that could be possibly something based on

1 how these conditions are currently written that would run
2 afoul of Mr. Hamad and potentially violate pretrial release.

3 And we have a number of supporters of Mr. Hamad who
4 are of the Jewish faith and who support being around him and
5 continuing to enjoy his association and accommodations with
6 him. And not to mention, Your Honor, there is also the
7 ongoing Israeli Palestinian conflict. It is a war between
8 nations, not religions, and there are many, many Jewish
9 entities that do not support the current Israeli efforts that
10 do support the defense of the Palestine, so for many it is not
11 a matter of two religions at odd and to take that standpoint
12 is a narrow and problematic view.

13 What would be more reasonable in place of the 7(g)
14 condition is to keep Mr. Hamad -- prohibit his restriction
15 from the Chabad Center and the Jewish Federation Building.
16 That would make much more sense and be much more reasonable.

17 Additionally, Your Honor, the condition of "extremist
18 views" and barring Mr. Hamad from viewing anything that might
19 relate to that, it is, again, unConstitutionally vague which
20 again runs afoul of the First Amendment and Mr. Hamad's rights
21 as a United States citizen. And even taking current events as
22 an example, there might be several news stations that people
23 opposite outside the political spectrum may view or categorize
24 as extremist, but stating a political standpoint is protected
25 speech. Limiting anything that incites violence is

1 reasonable, but simply stating partisan points that someone
2 else might not agree with is not lawful and our Constitution
3 does prohibit that.

4 Additionally, Your Honor, this condition as well as
5 the others, they go beyond the purpose of the Bail Reform Act.
6 Nothing within them should be interpreted as giving the
7 government the right to sensor its citizen from news media
8 outlets or other legitimate sources of information.

9 Finally, Your Honor, as it relates to the drug
10 testing condition, the defense, we submit this is wholly
11 unreasonable. You can't forget that Mr. Hamad has no criminal
12 history. And in addition to that, he is still currently
13 enlisted within the United States military. As such, he is
14 prohibited and he does abstain from any type of illicit drugs
15 or consuming them in any way. He has no social history, no
16 criminal history of ever having any involvement at all with
17 drugs. Again, to meet a more reasonable ground, there are
18 other conditions, Your Honor, that could also be addressed.
19 We think that these four are the main ones that are unduly
20 onerous on Mr. Hamad and do not conform to the least
21 restrictive condition and standard that the Bail Reform Act
22 and the United States Code offers.

23 What it does permit, Your Honor, the Bail Reform Act
24 is for this Court to look at a person's character as a whole
25 when determining conditions for their pretrial release. So

1 this was in large part why we admitted, Your Honor, these
2 different exhibits for your consideration, to see people from
3 the community who are in support of Mr. Hamad, people of the
4 Jewish faith who the government has painted Mr. Hamad as
5 hating, which is simply not true or accurate.

6 Just overall, Your Honor, the Bail Reform Act truly
7 makes clear that what is to be considered, if or when pretrial
8 conditions of release are implemented, that again, has to only
9 be the least restrictive conditions, and the concessions that
10 the defense is willing to make we believe sufficiently
11 addresses those conditions to make sure that Mr. Hamad still
12 appears in court and that he does not pose a threat or danger
13 to members of the community.

14 So for those reasons, Your Honor, the defense
15 respectfully asks that you eliminate the overly-broad,
16 unConstitutional and also in part just unnecessary conditions
17 that Mr. Hamad is currently facing with home detention, drug
18 testing, his right to associate and also his ability to be
19 able to consume certain information from legitimate news
20 sources or outlets.

21 THE COURT: Thank you, Attorney Olaiya. First, I'm
22 going to take these out of order, because I'm going to handle
23 what I deem to be the easiest to address first. I'll turn to
24 AUSA Bloch as it relates to 7, and counsel did not -- Attorney
25 Olaiya didn't mention 7, but I think they kind of go hand in

1 hand, so I'll ask for the government's position as it relates
2 to 7, and that is submit to testing for prohibited substances
3 is required. That's N. Participate in a program of
4 outpatient or inpatient substance abuse therapy and
5 counseling. First I'll hear from the government on that.

6 MS. BLOCH: Certainly, Judge. Here is my comment. I
7 have no evidence that indicates that he is a drug user, but
8 I'll share with the Court and what was shared with me is that
9 Mr. Hamad was mostly uncooperative in responding to questions
10 posed by pretrial services. They asked him about prior drug
11 use, and he refused to answer. They told him that by not
12 answering, we have to assume that you did use drugs. Because
13 you're not sharing with us, we can't make an informed
14 assessment of that. I do know there was one drug test taken.
15 My understanding, at least as of yesterday, is that there were
16 no results back yet. I am not opposed to that being stricken,
17 but I just want the Court to understand that we don't have any
18 information about his history because he refused to provide.

19 THE COURT: So Attorney Olaiya, I'll let you
20 follow-up if you have any.

21 MS. OLAIYA: Yes, Your Honor. If I may respond to
22 that, pretrial services, as the Court knows, routinely
23 interviews our clients when it comes to release and new
24 arrest. In those instances, we always tell our clients when
25 or when not to answer certain questions, and sometime we will

1 take the lead to those situations and tell them whether or not
2 to answer, because we do not know the full extent of what the
3 government's evidence may be. So there were no
4 representatives of other attorneys were also present as
5 officers of the Court with Mr. Hamad during that conversation,
6 so it was not to that extent. Rather my office --

7 THE COURT: Just so that I'm following, so you're
8 saying that he was not counseled by anyone at the Federal
9 Public Defenders' office to refrain from answering questions
10 regarding substance abuse?

11 MS. OLAIYA: No. I'm saying he was counseled and we
12 interject, so it is not as if he wasn't trying to cooperate.
13 We always just jump ahead of it before our clients even get a
14 word out.

15 THE COURT: Okay. As it relates to condition N and O
16 and, of course, I'm guided by 18 U.S.C. 3142(C)1(b) as
17 mentioned wherein the judicial officer is supposed to consider
18 the least restrictive combination or combinations of
19 conditions that would do one of two things: One, ensure the
20 appearance of the Defendant in court, and two, protect any
21 person, any other person and/or the community. As it relates
22 to N and O, they will be stricken from the conditions of
23 release.

24 Moving backwards to 7(u) as I have it here, and that
25 is about you shall not possess, view, access or otherwise use

1 material that reflects extremist or terroristic views or is
2 deemed to be inappropriate by the U.S. probation and pretrial
3 services office. There is the argument on behalf of
4 Mr. Hamad, AUSA Bloch, that that's overly broad or vague
5 and/or not easily understood by someone who would be seeking
6 to comply. What say the government?

7 MS. OLAIYA: I just wanted to interject just for
8 clarification of the record that there is still electronic
9 monitoring that Mr. Hamad is on, so we are not asking for that
10 electronic monitoring to be stricken.

11 THE COURT: Right. I didn't raise that. I'm taking
12 this piecemeal, so I'm only raising the idea that you raised,
13 as I understood and have here in my notes that you believe
14 that as it relates to -- which I believe you called censorship
15 in terms of the material that he is able to view and possess,
16 so that's the only thing I'm addressing.

17 MS. OLAIYA: Yes, ma'am. My apologies.

18 THE COURT: AUSA Bloch, what do you have to say in
19 response, again, keeping in mind that a person needs to
20 develop enough information in order to comply?

21 MS. BLOCH: I do understand that. First, I don't
22 think it is unConstitutional. I do think that pursuant to
23 3142(C)(b)(14), the Court, given the facts of the particular
24 case, can impose a condition that they deem to be reasonably
25 necessary to ensure the safety of another person in the

1 community, and that can be anything that the Court finds is
2 appropriate in the case. I'm not suggesting -- I believe, as
3 I understand, that the probation office, and I'm sure
4 Mr. Orson can confirm this, they on their own recommended this
5 restriction. This was not driven at least initially by the
6 government. They retrieved language and verbiage used in a
7 couple other cases, one of which was out of this district,
8 because it is not very often that we have a case like this.
9 So they sought some input. I do think that there needs to be
10 such a restriction; it may need to be finessed in terms of the
11 specificity of what we are seeking about. It's hard to say,
12 like, you know, there is extremist material everywhere, so you
13 can't just identify one particular source and say, Okay. You
14 can't go to Google, or You can't go to extremist material dot
15 com. So it has to be broad enough that the probation office,
16 in monitoring his Internet connectivity, recognizes that he is
17 looking at material that fits that model. So I am not
18 suggesting it is perfect. I'm not suggesting it might not
19 need some tweaking, but I do think it is perfectly appropriate
20 in this case, and I do think that there is something of value
21 to have the Defendant not engaging in this reading and
22 indulging in extremist thought while he is pending indictment
23 and presumably trial.

24 THE COURT: I will give Attorney Olaiya the final
25 word.

1 MS. OLAIYA: Just that Ms. Bloch's point, it is very
2 confusing essentially. So the computer monitoring, the
3 electronic monitoring, essentially anything that can connect
4 to the WiFi that Mr. Hamad has access to is already actively
5 being monitored by pretrial services, so putting this
6 additional overly-broad condition that can very well set
7 Mr. Hamad up for failure is unnecessary.

8 I think it is clear anything that's related to
9 explosives and cites to violence, I think that's pretty
10 obvious an objective that Mr. Hamad shouldn't be viewing that,
11 but outside of that, and the monitoring that the pretrial
12 services already have, this condition is unnecessary. It is
13 vague. It is confusing, and it is not the least restrictive
14 condition that needs to be imposed. Electronic monitoring
15 already solves that.

16 MS. BLOCH: Let me say one thing. I think what she
17 -- electronic monitoring --

18 MS. OLAIYA: Excuse me. Computer monitoring.

19 MS. BLOCH: Computer monitoring only works if there
20 is something the probation office is looking to see if the
21 pretrial detainee is accessing, whether that was child
22 pornography. You can't have it just monitoring everything.
23 Their system won't work that way. Their system works to look
24 for specifically things that are restricted from looking at,
25 so again, child exploitation cases, that the condition they

1 not access with intent to view, possess, go to websites that
2 speak to, you know, have conversations about child
3 exploitation, that's what the monitoring -- then the probation
4 office knows what they are looking for hits for. If it is
5 just open-ended, there is no way they will have a hit because
6 there is no restriction. There is no contents that they are
7 looking for him going to, so I just need to clarify that
8 factually and similarly with monitoring GPS --

9 THE COURT: Let's not go there yet. We are going to
10 handle this one at a time as it relates to the particular
11 conditions where Defendant is seeking to have it stricken. It
12 will not be stricken, but I'm going to require the parties to
13 have some discussion about defining what extremists and/or
14 terroristic views mean as in it will say an extremist i.e.
15 over the following or something of that nature to give
16 Mr. Hamad some guidance so that he knows when he steps on the
17 line, over the line, or if he has not crossed the line as well
18 as it is not clear enough.

19 So today's date is the 6th, but that gives you more
20 time, so by the 8 th close of business, I expect that the
21 government will have submitted for the Court's consideration
22 language such that would be responsive enough to the concern
23 that the Court has stated here.

24 Let's go to the Jewish-owned businesses, et cetera,
25 et cetera, or nonprofits or things of that nature. So 7(g),

1 and, of course, you heard the argument about it being
2 unConstitutional, right to assembly and associates, suggestion
3 of guilt, et cetera, as well as persons who are associated
4 with Mr. Hamad who may be of the Jewish faith who don't
5 believe he otherwise, I guess, is a threat, but I'll hear from
6 the government as it relates to -- the issue, again, is it
7 being, one, unConstitutional. I appreciate that you mentioned
8 3142(C)(1)(b)(14), but then also in terms of is it vague in
9 terms of determining what's a Jewish organization or not.

10 I'll say that in reading this, I know from my own
11 perspective, I'm not sure that I would know every building,
12 business, association, whether it was Jewish or not. Of
13 course, there is some that are more identifiable than others,
14 but for those that aren't, again, trying to make sure that if
15 a Defendant is otherwise going to commit a violation of this
16 condition of release, they ought to know what they are. So
17 I'll turn to AUSA Bloch for that.

18 MS. BLOCH: I would agree with that. I can say this.
19 If he remains on home detention with permission to, as you
20 pointed out even in the current conditions, with permission to
21 work, to go to school, go to the doctor's, all of the things
22 that he would need to do with permission of the probation
23 office obviously in advance, I am willing to allow that to be
24 stricken. I do agree with you, it could either be refashioned
25 to buildings that are obviously associated with either the

1 practice of Jewish faith or are associated with a synagogue,
2 but there are probably a lot of businesses owned by Jews, and
3 I'm sure that nobody knows what those are. I wouldn't know.

4 THE COURT: I would agree with that. In turning to
5 home detention, Mr. Hamad will remain on home detention. He
6 will remain with home monitoring device. I don't need the
7 government to speak to that, and I appreciate that you were
8 only agreeing to the reduction of 7(g) in the event he was
9 going to be receiving home detention, but I can say as a
10 judicial officer guided by the Bail Reform Act to comply with
11 3142(C)(1)(b), I do find that that is not a restrictive
12 condition considering the evidence that has been testified to
13 today, particularly the fact that there is still an amount of
14 explosives that exist and no one knows where they exist.

15 I found it very credible that Mr. Hamad at one point
16 was in possession of those. They arrived at his home. There
17 was communication between him and another person, unknown
18 individual, about those set explosives. There were
19 photographs received by Mr. Hamad, discussion about a test run
20 as in a test run is done before something else was to happen.
21 I find that that condition is not restrictive. So if we are
22 keeping score, as it relates to 7(g), that will be stricken.
23 As it relates to 7(n) raised by counsel, stricken. I raised
24 7(o), stricken, and as it relates to 7(u), that is going to be
25 revised and proposed -- as it stands, this will stand as

1 written, 7(u); however, again, by close of business on Friday,
2 the government is to provide some language wherein it is more
3 defined such that Mr. Hamad will be well-aware of whether or
4 not he is on the line or crossed the line. And I will give
5 counsel for Mr. Hamad an opportunity to respond. And so if
6 the 8th is Friday, I'll give you to Wednesday this next week
7 to respond to the proposal.

8 I would recommend that counsel actually get together
9 and discuss. It's altogether possible that at a meet and
10 confer, you may have language that you agree to, and on
11 Friday, you file a consented-to modification of only one.
12 That would be 7(u).

13 I am not on the fence as it relates to my
14 understanding of the Bail Reform Act and/or the conditions
15 being imposed, and I believe they should be.

16 Is there anything else on behalf of Mr. Hamad,
17 Attorney Olaiya.

18 MS. OLAIYA: No, Your Honor.

19 THE COURT: On behalf of the government, anything
20 else you would like to offer for the Court's consideration?

21 MS. BLOCH: Nothing else, Your Honor. Thank you very
22 much.

23 THE COURT: With that, we are adjourned.

24 (Matter concluded)

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C E R T I F I C A T E

I, TERESA M. BENSON, RMR, FCRR, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled case.

S\ Teresa M. Benson
Teresa M. Benson, RMR, FCRR
Official Court Reporter

12/4/24